

STATE OF MINNESOTA

SEVENTY-EIGHTH SESSION -- 1993

THIRTY-THIRD DAY

SAINT PAUL, MINNESOTA, MONDAY, APRIL 12, 1993

The House of Representatives convened at 7:00 p.m. and was called to order by Dee Long, Speaker of the House.

Prayer was offered by the Reverend Dr. Donald M. Meisel, House Chaplain.

The members of the House gave the pledge of allegiance to the flag of the United States of America.

The roll was called and the following members were present:

Abrams	Dauner	Haukoos	Krueger	Murphy	Rest	Trimble
Anderson, I.	Dauids	Hausman	Lasley	Neary	Rhodes	Tunheim
Anderson, R.	Dawkins	Holsten	Leppik	Nelson	Rice	Van Dellen
Asch	Dehler	Hugoson	Lieder	Ness	Rodosovich	Vellenga
Battaglia	Delmont	Huntley	Limmer	Olson, K.	Rukavina	Vickerman
Bauerly	Dempsey	Jacobs	Lindner	Olson, M.	Sarna	Wagenius
Beard	Dorn	Jaros	Lourey	Onnen	Seagren	Waltman
Bergson	Erhardt	Jefferson	Luther	Opatz	Sekhon	Weaver
Bertram	Evans	Jennings	Lynch	Orenstein	Simoneau	Wejcman
Bettermann	Farrell	Johnson, A.	Macklin	Orfield	Skoglund	Welle
Bishop	Frerichs	Johnson, R.	Mahon	Osthoff	Smith	Wenzel
Blatz	Garcia	Johnson, V.	Mariani	Ostrom	Solberg	Winter
Brown, C.	Girard	Kahn	McCollum	Ozment	Sparby	Wolf
Brown, K.	Goodno	Kalis	McGuire	Pauly	Stanis	Worke
Carlson	Greenfield	Kelso	Milbert	Pawlenty	Steensma	Workman
Carruthers	Greiling	Kinkel	Molnau	Pelowski	Sviggum	Spk. Long
Clark	Gruenes	Klinzing	Morrison	Perlt	Swenson	
Commers	Gutknecht	Koppendraye	Mosel	Pugh	Tomassoni	
Cooper	Hasskamp	Krinkie	Munger	Reding	Tompkins	

A quorum was present.

Kelley, Knickerbocker and Peterson were excused.

Olson, E., was excused until 7:45 p.m.

The Chief Clerk proceeded to read the Journal of the preceding day. Perlt 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

S. F. No. 198 and H. F. No. 248, which had been referred to the Chief Clerk for comparison, were examined and found to be identical.

Welle moved that S. F. No. 198 be substituted for H. F. No. 248 and that the House File be indefinitely postponed. The motion prevailed.

S. F. No. 605 and H. F. No. 950, which had been referred to the Chief Clerk for comparison, were examined and found to be identical with certain exceptions.

SUSPENSION OF RULES

Skoglund moved that the rules be so far suspended that S. F. No. 605 be substituted for H. F. No. 950 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
SAINT PAUL 55155

April 7, 1993

The Honorable Dee Long
Speaker of the House of Representatives
The State of Minnesota

Dear Speaker Long:

It is my honor to inform you that I have received, approved, signed and deposited in the Office of the Secretary of State the following House Files:

H. F. No. 298, relating to local government; creating the office of Anoka county coroner; appointing a physician as county coroner; appointing assistant coroners; designating deputy coroners; establishing the duties of the coroner.

H. F. No. 341, relating to business corporations; making various technical changes.

H. F. No. 159, relating to education; extending the time for school districts receiving capital loans prior to April 1, 1993, to enter into construction contracts.

H. F. No. 145, relating to occupations and professions; modifying board of medical practice requirements for licensure by reciprocity.

Warmest regards,

ARNE H. CARLSON
Governor

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

The Honorable Dee Long
Speaker of the House of Representatives

The Honorable Allan H. Spear
President of the Senate

I have the honor to inform you that the following enrolled Acts of the 1993 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 1993</i>	<i>Date Filed 1993</i>
300		15	3:25 p.m. April 7	April 7
	298	16	3:20 p.m. April 7	April 7
	341	17	3:22 p.m. April 7	April 7
	159	18	3:24 p.m. April 7	April 7
	145	19	3:24 p.m. April 7	April 7

Sincerely,

JOAN ANDERSON GROWE
Secretary of State

STATE OF MINNESOTA
OFFICE OF THE GOVERNOR
SAINT PAUL 55155

April 12, 1993

The Honorable Dee Long
Speaker of the House of Representatives
The State of Minnesota

Dear Speaker Long:

It is my honor to inform you that I have received, approved, signed and deposited in the Office of the Secretary of State the following House File:

H. F. No. 203, relating to occupations and professions; board of medical practice; modifying requirements for licensing United States, Canadian, and foreign medical school graduates; providing for temporary permits; providing for residency permits; adding a requirement for students exempt from penalties for practicing without a license; adding to licensed professionals subject to reporting obligations; indemnifying board members, consultants, and persons employed by the board; adding registration requirements for physical therapists from other states and foreign-trained physical therapists.

Warmest regards,

ARNE H. CARLSON
Governor

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

The Honorable Dee Long
Speaker of the House of Representatives

The Honorable Allan H. Spear
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<i>S.F.</i>	<i>H.F.</i>	<i>Session Laws</i>	<i>Time and</i> <i>Date Approved</i>	<i>Date Filed</i>
<i>No.</i>	<i>No.</i>	<i>Chapter No.</i>	<i>1993</i>	<i>1993</i>
	203	21	10:27 a.m. April 12	April 12

Sincerely,

JOAN ANDERSON GROWE
Secretary of State

REPORTS OF STANDING COMMITTEES

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

H. F. No. 258, A bill for an act relating to state lands; authorizing the sale of certain tax-forfeited land that borders public water in Washington county to the city of Oakdale.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. [WASHINGTON COUNTY; SALE OF TAX-FORFEITED LAND.]

(a) Notwithstanding Minnesota Statutes, sections 92.45 and 282.018, Washington county may sell to the city of Oakdale the tax-forfeited land bordering public waters that is described in paragraph (c), under the remaining provisions of Minnesota Statutes, chapter 282.

(b) The conveyance must be in a form approved by the attorney general and must require that any sales by the city of Oakdale of the land described in paragraph (c) be by public sale to the highest bidder.

(c) The land that may be conveyed is located in Washington county and consists of those lots described as follows: Lots 2, 3, 6, 7, 8, and 9, Block 2, Sun Meadow First Addition, Washington county.

(d) The county has determined that the county's land management interests would best be served if the lands were controlled by the city of Oakdale.

Sec. 2. [EFFECTIVE DATE.]

Section 1 is effective the day following final enactment."

With the recommendation that when so amended the bill pass.

The report was adopted.

Kahn from the Committee on Governmental Operations and Gambling to which was referred:

H. F. No. 318, A bill for an act relating to public administration; providing that government records may be stored on optical disk and retained in that format only; amending Minnesota Statutes 1992, section 15.17, subdivision 1; and 138.17, by adding a subdivision.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 1992, section 15.17, subdivision 1, is amended to read:

Subdivision 1. [MUST BE KEPT.] All officers and agencies of the state, counties, cities, towns, school districts, municipal subdivisions or corporations, or other public authorities or political entities within the state, hereinafter "public officer," shall make and preserve all records necessary to a full and accurate knowledge of their official activities. All government records shall be made on a physical medium of a quality to insure permanent records. Every public officer is empowered to reproduce records if the records are not deemed to be of permanent or archival value by the commissioner of administration and the records disposition panel under section 138.17. The public officer is empowered to reproduce these records by any photographic, photostatic, microphotographic, optical disk imaging system, microfilming, or other reproduction method that clearly and accurately reproduces the records. If a record is deemed to be of permanent or archival value, any reproduction of the record must meet archival standards specified by the Minnesota historical society provided, however, that this section does not prohibit the use of nonerasable optical imaging systems for the preservation of archival records without the preservation of paper or microfilm copies. Each public officer may order that those photographs, photostats, microphotographs, microfilms, optical disk images, or other reproductions, be substituted for the originals of them. The public officer may direct the destruction or sale for salvage or other disposition of the originals from which they were made, in accordance with the disposition requirements of section 138.17. Photographs, photostats, microphotographs, microfilms, optical disk images, or other reproductions are for all purposes deemed the original recording of the papers, books, documents, and records reproduced when so ordered by any public officer and are admissible as evidence in all courts and proceedings of every kind. A facsimile or exemplified or certified copy of a photograph, photostat, microphotograph, microfilm, optical disk image, or other reproduction, or an enlargement or reduction of it, has the same effect and weight as evidence as would a certified or exemplified copy of the original.

Sec. 2. Minnesota Statutes 1992, section 138.17, is amended by adding a subdivision to read:

Subd. 10. [OPTICAL IMAGE STORAGE.] (a) Any government record, including a record with archival value, may be transferred to and stored on a nonerasable optical imaging system and retained only in that format, if the requirements of this section are met.

(b) All documents preserved on nonerasable optical imaging systems must meet standards for permanent records specified in section 15.17, subdivision 1, and must be kept available for retrieval so long as any law requires. Standards under section 15.17, subdivision 1, may not be inconsistent with efficient use of optical imaging systems.

(c) A government entity storing a record on an optical imaging system must create and store a backup copy of the record at a site other than the site where the original is kept. The government entity must retain the backup copy and operable retrieval equipment so long as any law requires the original to be retained. The backup copy required by this paragraph must be preserved either (1) on a nonerasable optical imaging system; or (2) by another reproduction method approved by the records disposition panel.

(d) A contract between the government entity responsible for preserving records and the vendor of the optical imaging system used to preserve records of that government entity must require the vendor to maintain a current copy of the vendor's source code for the imaging system in escrow, and to authorize the government entity to obtain the copy of the source code if the vendor is unable or unwilling to support the optical imaging system."

Delete the title and insert:

"A bill for an act relating to public administration; providing that government records may be stored on optical imaging systems and retained in that format only; amending Minnesota Statutes 1992, sections 15.17, subdivision 1; and 138.17, by adding a subdivision."

With the recommendation that when so amended the bill pass.

The report was adopted.

Skoglund from the Committee on Judiciary to which was referred:

H. F. No. 489, A bill for an act relating to occupations and professions; boards of social work and marriage and family therapy; providing for data classifications and providing certain immunities for supervisors and persons reporting violations; changing board membership; adding certain licensing requirements to the board of social work; amending Minnesota Statutes 1992, sections 13.99, subdivision 49; 148B.04, by adding subdivisions; 148B.08, subdivision 1, and by adding a subdivision; 148B.18, subdivisions 8 and 10; 148B.19, subdivisions 1 and 2; 148B.21, subdivisions 3, 4, 5, 6, and by adding a subdivision; 148B.26, subdivision 1; 148B.27, by adding a subdivision; and 148B.28, subdivision 2.

Reported the same back with the following amendments:

Page 2, delete section 3

Page 2, delete section 5

Renumber the sections in sequence

Correct internal references

Amend the title as follows:

Page 1, line 4, delete "and providing certain"

Page 1, delete line 5

Page 1, line 6, delete "violations"

Page 1, line 9, delete "subdivisions" and insert "a subdivision"

Page 1, line 10, delete everything after "1" and insert a semicolon

With the recommendation that when so amended the bill pass.

The report was adopted.

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

H. F. No. 514, A bill for an act relating to the environment; modifying a person's duty to report releases of a petroleum product; establishing an accountability committee; modifying petroleum tank release cleanup fee; modifying reimbursements; modifying consultant and contractor registration requirements; amending Minnesota Statutes 1992, sections 115C.02, subdivisions 10, 14, and by adding a subdivision; 115C.06, subdivision 2; 115C.065; 115C.07, subdivisions 2, 3, and by adding subdivisions; 115C.08, subdivisions 1, 2, 3, and 4; 115C.09, subdivisions 2, 3, 3a, 3c, and 5; and 115C.11, subdivision 1; repealing Minnesota Statutes 1992, sections 115C.01 to 115C.11; and Minnesota Rules, part 2890.0065.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 1992, section 115C.02, subdivision 10, is amended to read:

Subd. 10. [PETROLEUM.] "Petroleum" means:

(1) ~~gasoline and fuel oil as defined in section 296.01, subdivisions 18 and 21;~~

(2) ~~crude oil or a fraction of crude oil that is liquid at a temperature of 60 degrees Fahrenheit and pressure of 14.7 pounds per square inch absolute; or~~

(3) ~~constituents of gasoline and fuel oil under clause (1) and crude oil under clause (2);~~ liquid petroleum products as defined in section 296.01;

(2) new and used lubricating oils; and

(3) new and used hydraulic oils used in lifts to raise motor vehicles or farm equipment and for servicing or repairing motor vehicles or farm equipment.

Sec. 2. Minnesota Statutes 1992, section 115C.03, is amended by adding a subdivision to read:

Subd. 1a. [PASSIVE BIOREMEDIATION.] The commissioner shall consider the use of passive bioremediation for petroleum tank cleanups.

Sec. 3. Minnesota Statutes 1992, section 115C.03, is amended by adding a subdivision to read:

Subd. 7a. [REVIEW OF AGENCY EMPLOYEE DECISIONS.] A person aggrieved by a decision made by an employee of the agency relating to the need for or implementation of a corrective action may seek review of the decision by the commissioner. An application for review must state with specificity the decision for which review is sought, the name of the leak site, the leak number, the date the decision was made, the agency employee who made the decision, the ramifications of the decision, and any additional pertinent information. The commissioner shall review the application and schedule a time, date, and place for the aggrieved person to explain the grievance and for the agency employee to explain the decision under review. The commissioner shall issue a decision either sustaining or reversing the decision of the employee. The aggrieved person may appeal the commissioner's decision to the pollution control agency board in accordance with Minnesota Rules, part 7000.0500, subpart 6.

Sec. 4. Minnesota Statutes 1992, section 115C.07, subdivision 1, is amended to read:

Subdivision 1. [ESTABLISHMENT.] The petroleum tank release compensation board consists of the commissioner of the pollution control agency, the commissioner of commerce, two representatives from the petroleum industry, and one representative from the insurance industry, one representative of petroleum consumers, and one representative of interested citizens groups. The governor shall appoint the members from the insurance and petroleum industry and the representatives of consumers and citizens groups. The filling of positions reserved for industry representatives, vacancies, membership terms, payment of compensation and expenses, and removal of members are governed by section 15.0575. The governor shall designate the chair of the board.

Sec. 5. Minnesota Statutes 1992, section 115C.07, subdivision 2, is amended to read:

Subd. 2. [STAFF.] The commissioner of commerce shall provide staff to support the activities of the board at the board's request.

Sec. 6. Minnesota Statutes 1992, section 115C.07, subdivision 3, is amended to read:

Subd. 3. [RULES.] (a) The board shall adopt rules regarding its practices and procedures, the form and procedure for applications for compensation from the fund, procedures for investigation of claims and specifying the costs that are eligible for reimbursement from the fund.

(b) The board may adopt emergency rules under this subdivision for one year after June 4 1, 1987 1993.

~~(c) The board shall adopt emergency rules within four months of May 25, 1991, and permanent rules within one year of May 25, 1991, designed to ensure that costs submitted to the board for reimbursement are reasonable. The rules shall include a requirement that persons taking corrective action solicit competitive bids, based on unit service costs, except in circumstances where the board determines that such solicitation is not feasible. The board shall adopt emergency rules on competitive bidding that specify a bid format and an invoice format that are consistent with each other and with an application for reimbursement.~~

(d) The board shall adopt emergency rules under sections 14.29 and 14.385 to establish costs that are not eligible for reimbursement.

(e) By January 1, 1994, the board shall publish proposed rules establishing a fee schedule of costs or criteria for evaluating the reasonableness of costs submitted for reimbursement. The board shall adopt the rules by June 1, 1994.

~~(f)~~ (f) The board may adopt rules requiring certification of environmental consultants.

(g) The board may adopt other rules necessary to implement this chapter.

Sec. 7. Minnesota Statutes 1992, section 115C.08, subdivision 1, is amended to read:

Subdivision 1. [REVENUE SOURCES.] Revenue from the following sources must be deposited in the state treasury and credited to a petroleum tank release cleanup account in the environmental fund ~~in the state treasury~~:

- (1) the proceeds of the fee imposed by subdivision 3;
- (2) money recovered by the state under sections 115C.04, 115C.05, and 116.491, including administrative expenses, civil penalties, and money paid under an agreement, stipulation, or settlement;
- (3) interest attributable to investment of money in the account;
- (4) money received by the board and agency in the form of gifts, grants other than federal grants, reimbursements, or appropriations from any source intended to be used for the purposes of the account; ~~and~~
- (5) fees charged for the operation of the tank installer certification program established under section 116.491; and
- (6) money obtained from the return of reimbursements, civil penalties, or other board action under this chapter.

Sec. 8. Minnesota Statutes 1992, section 115C.08, subdivision 2, is amended to read:

Subd. 2. [IMPOSITION OF FEE.] The board shall notify the commissioner of revenue if the unencumbered balance of the account falls below ~~\$2,000,000~~ \$4,000,000, and within 60 days after receiving notice from the board, the commissioner of revenue shall impose the fee established in subdivision 3 on the use of a tank for four calendar months, with payment to be submitted with each monthly distributor tax return.

Sec. 9. Minnesota Statutes 1992, section 115C.08, subdivision 3, is amended to read:

Subd. 3. [PETROLEUM TANK RELEASE CLEANUP FEE.] A petroleum tank release cleanup fee is imposed on the use of tanks that contain petroleum products defined in section 296.01. On products other than gasoline, the fee must be paid in the manner provided in section 296.14 by the first licensed distributor receiving the product in Minnesota, as defined in section 296.01. When the product is gasoline, the distributor responsible for payment of the gasoline tax is also responsible for payment of the petroleum tank cleanup fee. The fee must be imposed as required under subdivision 3, at a rate of ~~\$10~~ \$20 per 1,000 gallons of petroleum products, rounded to the nearest 1,000 gallons. A distributor who fails to pay the fee imposed under this section is subject to the penalties provided in section 296.15.

Sec. 10. Minnesota Statutes 1992, section 115C.08, subdivision 4, is amended to read:

Subd. 4. [EXPENDITURES.] (a) Money in the account may only be spent:

- (1) to administer the petroleum tank release cleanup program established in ~~sections 115C.03 to 115C.10~~ this chapter;

(2) for agency administrative costs under sections 116.46 to 116.50, sections 115C.03 to 115C.06, and costs of corrective action taken by the agency under section 115C.03, including investigations;

(3) for costs of recovering expenses of corrective actions under section 115C.04;

(4) for training, certification, and rulemaking under sections 116.46 to 116.50;

(5) for agency administrative costs of enforcing rules governing the construction, installation, operation, and closure of aboveground and underground petroleum storage tanks; and

(6) for reimbursement of the harmful substance compensation account under sections 115B.26, subdivision 4; and 115C.08, subdivision 5; and

(7) for administrative and staff costs as set by the board to administer the petroleum tank release program established in this chapter.

(b) The board shall reimburse the department of commerce for the costs of the staff required by the board to administer this chapter.

(c) Money in the account is appropriated to the board to make reimbursements or payments under this section.

Sec. 11. Minnesota Statutes 1992, section 115C.09, subdivision 1, is amended to read:

Subdivision 1. [REIMBURSABLE COSTS.] (a) The board shall provide partial reimbursement to eligible responsible persons for reimbursable costs incurred after June 4, 1987.

(b) The following costs are reimbursable for purposes of this section:

(1) corrective action costs incurred by the responsible person and documented in a form prescribed by the board, except the costs related to the physical removal of a tank;

(2) costs that the responsible person is legally obligated to pay as damages to third parties for bodily injury or property damage caused by a release if the responsible person's liability for the costs has been established by a court order or a consent decree; and

(3) up to 180 days worth of interest costs, incurred after May 25, 1991, associated with the financing of corrective action. Interest costs are not eligible for reimbursement to the extent they exceed two percentage points above the adjusted prime rate charged by banks, as defined in section 270.75, subdivision 5, at the time the financing contract was executed.

(c) A cost for liability to a third party is incurred by the responsible person when an order or consent decree establishing the liability is entered. Except as provided in this paragraph, reimbursement may not be made for costs of liability to third parties until all eligible corrective action costs have been reimbursed. If a corrective action is expected to continue in operation for more than one year after it has been fully constructed or installed, the board may estimate the future expense of completing the corrective action and, after subtracting this estimate from the total reimbursement available under subdivision 3, reimburse the costs for liability to third parties. The total reimbursement may not exceed the limit set forth in subdivision 3.

Sec. 12. Minnesota Statutes 1992, section 115C.09, subdivision 3, is amended to read:

Subd. 3. [REIMBURSEMENTS; SUBROGATION; APPROPRIATION.] (a) The board shall reimburse a responsible person who is eligible under subdivision 2 from the account ~~for~~ as follows:

(1) 90 percent of the portion of the total reimbursable costs or \$1,000,000, whichever is less on sites where costs do not exceed \$250,000; or

(2) 75 percent of the portion of total reimbursable costs on sites where costs exceed \$250,000.

Not more than \$1,000,000 may be reimbursed for costs associated with a single release, regardless of the number of persons eligible for reimbursement, and not more than \$2,000,000 may be reimbursed for costs associated with a single tank facility.

(b) A reimbursement may not be made from the account under this subdivision until the board has determined that the costs for which reimbursement is requested were actually incurred and were reasonable.

(c) A reimbursement may not be made from the account under this subdivision in response to either an initial or supplemental application for costs incurred after June 4, 1987, that are payable under an applicable insurance policy, except that if the board finds that the responsible person has made reasonable efforts to collect from an insurer and failed, the board shall reimburse the responsible person under this subdivision.

(d) If the board reimburses a responsible person for costs for which the responsible person has petroleum tank leakage or spill insurance coverage, the board is subrogated to the rights of the responsible person with respect to that insurance coverage, to the extent of the reimbursement by the board. The board may request the attorney general to bring an action in district court against the insurer to enforce the board's subrogation rights. Acceptance by a responsible person of reimbursement constitutes an assignment by the responsible person to the board of any rights of the responsible person with respect to any insurance coverage applicable to the costs that are reimbursed. Notwithstanding this paragraph, the board may instead request a return of the reimbursement under subdivision 5 and may employ against the responsible party the remedies provided in that subdivision, except where the board has knowingly provided reimbursement because the responsible person was denied coverage by the insurer.

(e) Money in the account is appropriated to the board to make reimbursements under this section. A reimbursement to a state agency must be credited to the appropriation account or accounts from which the reimbursed costs were paid.

(f) The board shall reduce the amount of reimbursement to be made under this section if it finds that the responsible person has not complied with a provision of this chapter, a rule or order issued under this chapter, or one or more of the following requirements:

(1) at the time of the release the tank was in substantial compliance with state and federal rules and regulations applicable to the tank, including rules or regulations relating to financial responsibility;

(2) the agency was given notice of the release as required by section 115.061;

(3) the responsible person, to the extent possible, fully cooperated with the agency in responding to the release; and

(4) if the responsible person is an operator, the person exercised due care with regard to operation of the tank, including maintaining inventory control procedures.

(g) The reimbursement shall be reduced as much as 100 percent for failure by the responsible person to comply with the requirements in paragraph (f), clauses (1) to (4). In determining the amount of the reimbursement reduction, the board shall consider:

(1) the likely environmental impact of the noncompliance;

(2) whether the noncompliance was negligent, knowing, or willful;

(3) the deterrent effect of the award reduction on other tank owners and operators; and

(4) the amount of reimbursement reduction recommended by the commissioner.

(h) A responsible person may assign the right to receive reimbursement to each lender, who advanced funds to pay the costs of the corrective action; or to each contractor, or consultant who provided corrective action services. An assignment must be made by filing with the board a document, in a form prescribed by the board, indicating the identity of the responsible person, the identity of the assignee, the dollar amount of the assignment, and the location of the corrective action. An assignment signed by the responsible person is valid unless terminated by filing a termination with the board, in a form prescribed by the board, which must include the written concurrence of the assignee. The board shall maintain an index of assignments filed under this paragraph. The board shall pay the reimbursement to the responsible person and to one or more assignees by a multiparty check. The board has no liability to a responsible person for a payment under an assignment meeting the requirements of this paragraph.

Sec. 13. Minnesota Statutes 1992, section 115C.09, subdivision 3a, is amended to read:

Subd. 3a. [ELIGIBILITY OF OTHER PERSONS.] Notwithstanding the provisions of subdivisions 1 to 3, the board shall provide full reimbursement to a person who has taken corrective action if the board or commissioner of commerce determines that:

(1) the person took the corrective action in response to a request or order of the commissioner made under this chapter;

(2) the commissioner has determined that the person was not a responsible person under section 115C.02; and

(3) the costs for which reimbursement is requested were actually incurred and were reasonable.

Sec. 14. Minnesota Statutes 1992, section 115C.09, subdivision 3c, is amended to read:

Subd. 3c. [RELEASE AT REFINERIES AND TANK FACILITIES NOT ELIGIBLE FOR REIMBURSEMENT.] Notwithstanding other provisions of subdivisions 1 to 3b, a reimbursement may not be made under this section for costs associated with a release:

(1) from a tank located at a petroleum refinery; or

(2) from a tank facility, including a pipeline terminal, with more than 1,000,000 gallons of total petroleum storage capacity at the tank facility.

Clause (2) does not apply to reimbursement for costs associated with a release from a tank facility owned or operated by a person engaged in the business of mining iron ore or taconite.

Sec. 15. Minnesota Statutes 1992, section 115C.09, is amended by adding a subdivision to read:

Subd. 9. [DELEGATION OF BOARD'S POWERS.] The board may delegate to the commissioner of commerce its powers and duties under this section.

Sec. 16. Minnesota Statutes 1992, section 115C.11, subdivision 1, is amended to read:

Subdivision 1. [REGISTRATION.] (a) All consultants and contractors must register with the board in order to participate in the petroleum tank release cleanup program.

(b) The board must maintain a list of all registered consultants and a list of all registered contractors including an identification of the services offered.

(c) An applicant who applies for reimbursement must use a registered consultant and contractor in order to be eligible for reimbursement.

(d) The commissioner must inform any person who notifies the agency of a release under section 115.061 that the person must use a registered consultant or contractor to qualify for reimbursement and that a list of registered consultants and contractors is available from the board.

(e) Work performed by an unregistered consultant or contractor is ineligible for reimbursement.

(f) Work performed by a consultant or contractor prior to being removed from the registration list may be reimbursed by the board.

(g) If the information in an application for registration becomes inaccurate or incomplete in any material respect, the registered consultant or contractor must promptly file a corrected application with the board.

(h) Registration is effective on the date a complete application is received by the board. The board may reimburse the cost of work performed by an unregistered contractor if the contractor performed the work within 30 days of the effective date of registration.

Sec. 17. [115C.12] [APPEAL OF REIMBURSEMENT DETERMINATION.]

(a) A person may appeal to the board within 90 days after notice of a reimbursement determination made under section 115C.09 by submitting a written notice setting forth the specific basis for the appeal.

(b) The board shall consider the appeal within 90 days of the notice of appeal. The board shall notify the appealing party of the date of the meeting at which the appeal will be heard at least 30 days before the date of the meeting.

(c) The board's decision must be based on the written record and written arguments and submissions unless the board determines that oral argument is necessary to aid the board in its decision making. Any written submissions must be delivered to the board at least 15 days before the meeting at which the appeal will be heard. Any request for the presentation of oral argument must be in writing and submitted along with the notice of appeal.

Sec. 18. [REPEALER.]

Minnesota Statutes 1992, sections 115C.01; 115C.02; 115C.021; 115C.03; 115C.04; 115C.045; 115C.05; 115C.06; 115C.065; 115C.07; 115C.08; 115C.09; 115C.10; 115C.11; and 115C.12, are repealed effective June 30, 2000.

Sec. 19. [EFFECTIVE DATE.]

Sections 1 to 3, 5 to 8, and 10 to 18 are effective for corrective actions begun after September 1, 1993. Sections 4 and 9 are effective 60 days after final enactment."

Delete the title and insert:

"A bill for an act relating to the environment; providing for passive bioremediation; providing for review of agency employee decisions; increasing membership of petroleum tank release compensation board; establishing a fee schedule of costs or criteria for evaluating reasonableness of costs submitted for reimbursement; modifying petroleum tank release cleanup fee; modifying reimbursements; modifying consultant and contractor registration requirements; authorizing board to delegate its reimbursement powers and duties to the commissioner of commerce; authorizing rulemaking; appropriating money; amending Minnesota Statutes 1992, sections 115C.02, subdivision 10; 115C.03, by adding subdivisions; 115C.07, subdivisions 1, 2, and 3; 115C.08, subdivisions 1, 2, 3, and 4; 115C.09, subdivisions 1, 3, 3a, 3c, and by adding a subdivision; and 115C.11, subdivision 1; proposing coding for new law in Minnesota Statutes, chapter 115C; repealing Minnesota Statutes 1992, sections 115C.01; 115C.02; 115C.021; 115C.03; 115C.04; 115C.045; 115C.05; 115C.06; 115C.065; 115C.07; 115C.08; 115C.09; 115C.10; 115C.11; and 115C.12."

With the recommendation that when so amended the bill pass and be re-referred to the Committee on Environment and Natural Resources Finance.

The report was adopted.

Kahn from the Committee on Governmental Operations and Gambling to which was referred:

H. F. No. 520, A bill for an act relating to retirement; authorizing a second chance Medicare coverage referendum for certain public pension plan members.

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

The report was adopted.

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

H. F. No. 543, A bill for an act relating to state lands; authorizing public sale of certain tax-forfeited land that borders public water in Cook county.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. [PRIVATE SALE OF TAX-FORFEITED LAND; COOK COUNTY.]

(a) Notwithstanding Minnesota Statutes, sections 92.45 and 282.018, subdivision 1, and the public sale provisions of Minnesota Statutes, chapter 282, Cook county may convey by private sale for not less than the appraised value the tax-forfeited land bordering public water that is described in paragraph (c), under the remaining provisions of Minnesota Statutes, chapter 282.

(b) The conveyance must be in a form approved by the attorney general.

(c) The land that may be conveyed is located in Cook county and is described as:

(1) SW 1/4 of NE 1/4, Section 21, Township 60N, Range 3W

(2) SE 1/4 of NW 1/4, Section 21, Township 60N, Range 3W

(3) E 1/2 of NE 1/4 of SW 1/4, Section 20, Township 60N, Range 3W

(d) The county has determined that the county's land management interests would best be served if the lands were returned to private ownership.

Sec. 2. [SALE OF TAX-FORFEITED LAND; COOK COUNTY.]

(a) Notwithstanding Minnesota Statutes, sections 92.45 and 282.018, subdivision 1, Cook county may sell the tax-forfeited land bordering public water that is described in paragraph (c), under the remaining provisions of Minnesota Statutes, chapter 282.

(b) The conveyance must be in a form approved by the attorney general.

(c) The land that may be conveyed is located in Cook county and is described as that part of the SW 1/4 of the SE 1/4 of Section 20 lying southeasterly of the southernmost boundary of marked trunk highway number 61 and westerly of the following described line: Commencing at the southwest corner of said SW 1/4 SE 1/4, thence easterly along the south line thereof 1,000 feet to the point of beginning, thence northerly deflecting 90 degrees to the left 450 feet, more or less, to U.S. Highway 61 and there terminating; and that part of Government Lot 1 of Section 29 lying southeasterly of U.S. Highway 61 and westerly of the following described line: Commencing at the northwest corner of said Government Lot 1, thence easterly along the north line thereof 1,000 feet to the point of beginning, thence southerly deflecting 90 degrees to the right 600 feet, more or less, to the water's edge of Lake Superior and there terminating; all in Township 58 North, Range 5 West.

(d) The county has determined that the county's land management interests would best be served if the lands were returned to private ownership.

Sec. 3. [EFFECTIVE DATE.]

Section 1 is effective the day following final enactment."

Delete the title and insert:

"A bill for an act relating to state lands; authorizing the sale of certain tax-forfeited land that borders public water in Cook county."

With the recommendation that when so amended the bill pass.

The report was adopted.

Kahn from the Committee on Governmental Operations and Gambling to which was referred:

H. F. No. 574, A bill for an act relating to retirement; administrative changes and age discrimination act compliance by the Minnesota state retirement system and the public employees retirement association; coverage of fire inspectors, investigators, or marshals by the public employees police and fire fund; optional annuities and benefits payable by the teachers retirement association; amending Minnesota Statutes 1992, sections 3A.02, subdivision 1, and by adding a subdivision; 352.01, subdivisions 2b, 11, and by adding a subdivision; 352.03, subdivisions 4, 4a, and 6; 352.04, subdivision 9; 352.113, subdivisions 2, 4, 7, 12, and by adding a subdivision; 352.115, subdivision 8; 352.12, subdivisions 1, 3, 4, 7, 10, and 13; 352.15, subdivision 1a, and by adding subdivisions; 352.22, subdivisions 1 and 2; 352.23; 352.85, subdivision 4; 352.93, subdivision 2a; 352.94; 352.95, subdivisions 1, 2, 3, and 5; 352.951; 352.96, subdivisions 3 and 4; 352B.01, subdivision 3; 352B.08, subdivisions 1 and 2a; 352B.10, subdivisions 1, 2, and 5; 352B.101; 352B.11, subdivision 2; 352C.01; 352C.021; 352C.031; 352C.033; 352C.04; 352C.051; 352C.09; 352D.015, subdivision 4; 352D.02, subdivision 3, and by adding a subdivision; 352D.04, subdivision 1; 352D.05, subdivisions 1, 3, and 4; 352D.09, subdivision 5, and by adding a subdivision; 353.01, subdivisions 2, 2a, 2b, 6, 7, 10, 11a, 12, 16, 28, 31, 32, and by adding subdivisions; 353.017; 353.27, subdivision 7; 353.29, subdivision 1; 353.33, subdivisions 1, 2, 3, 4, 6, 8, 11, and by adding a subdivision; 353.34, subdivisions 1 and 3; 353.35; 353.37; 353.64, subdivisions 1, 3, 5a, and 9; 353.656, subdivisions 1, 1a, 3, 5, and by adding subdivisions; 353.71, subdivision 1; 353A.08, subdivisions 1, 3, and 5; 353A.10, subdivision 4; 353B.11, subdivision 6; 353C.08, subdivisions 1 and 2; 353D.02; 353D.04; 353D.05, subdivision 3; 353D.07, subdivision 2; 354.35; 354.46, subdivision 1; 354.48, subdivisions 3 and 10; 356.302, subdivisions 4 and 6; 356.453; 356.61; and 490.124, subdivisions 1 and 4; proposing coding for new law in Minnesota Statutes, chapter 3A; repealing Minnesota Statutes 1992, sections 3A.06; 352.01, subdivision 7; 352.12, subdivision 5; 352.22, subdivision 9; 352.73; 352.94, subdivision 2; 352B.01, subdivision 2a; 352B.131; 352B.14; 352B.261; 352B.262; 352B.28; 352C.021, subdivision 3; 352D.05, subdivision 5; and 353.656, subdivision 6.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"ARTICLE 1

MINNESOTA STATE RETIREMENT SYSTEM ADMINISTRATIVE LAW CHANGES

Section 1. Minnesota Statutes 1992, section 3A.02, subdivision 1, is amended to read:

Subdivision 1. [QUALIFICATIONS.] (a) A former legislator is entitled, upon written application to the director, to receive a retirement allowance monthly, if the person:

(1) has served at least six full years, without regard to the application of section 3A.10, subdivision 2, or has served during all or part of four regular sessions as a member of the legislature, which service need not be continuous;

(2) has attained the normal retirement age;

(3) has retired as a member of the legislature; and

(4) has made all contributions provided for in section 3A.03, has made payments for past service under subdivision 2, or has made payments in lieu of contributions under section 3A.031.

(b) For service rendered before the beginning of the 1979 legislative session, but not to exceed eight years of service, the retirement allowance is an amount equal to five percent per year of service of that member's average monthly salary. For service in excess of eight years rendered before the beginning of the 1979 legislative session, and for service rendered after the beginning of the 1979 legislative session, the retirement allowance is an amount equal to 2-1/2 percent per year of service of that member's average monthly salary.

(c) The retirement allowance accrues beginning with the first day of the month of receipt of the application, but not before age 60, and for the remainder of the former legislator's life, if the former legislator is not serving as a member of the legislature or as a constitutional officer or commissioner as defined in section 352C.021, subdivisions 2 and 3. The annuity shall not begin to accrue prior to retirement as a legislator. No annuity payment shall be made retroactive for more than 180 days before the date annuity application is filed with the director.

(d) Any member who has served during all or part of four regular sessions is considered to have served eight years as a member of the legislature.

(e) The retirement allowance ceases with the last payment that accrued to the retired legislator during the retired legislator's lifetime, except that the surviving spouse, if any, is entitled to the retirement allowance for the calendar month in which the retired legislator died.

Sec. 2. [3A.13] [EXEMPTION FROM PROCESS AND TAXATION.]

The provisions of Minnesota Statutes, section 352.15 shall apply to the legislators retirement plan, chapter 3A.

Sec. 3. Minnesota Statutes 1992, section 352.01, subdivision 2b, is amended to read:

Subd. 2b. [EXCLUDED EMPLOYEES.] "State employee" does not include:

- (1) elective state officers;
- (2) students employed by the University of Minnesota, the state universities, and community colleges unless approved for coverage by the board of regents, the state university board, or the state board for community colleges, as the case may be;
- (3) employees who are eligible for membership in the state teachers retirement association except employees of the department of education who have chosen or may choose to be covered by the Minnesota state retirement system instead of the teachers retirement association;
- (4) employees of the University of Minnesota who are excluded from coverage by action of the board of regents;
- (5) officers and enlisted personnel in the national guard and the naval militia who are assigned to permanent peacetime duty and who under federal law are or are required to be members of a federal retirement system;
- (6) election officers;
- (7) persons engaged in public work for the state but employed by contractors when the performance of the contract is authorized by the legislature or other competent authority;
- (8) officers and employees of the senate and house of representatives or a legislative committee or commission who are temporarily employed;
- (9) receivers, jurors, notaries public, and court employees who are not in the judicial branch as defined in section 43A.02, subdivision 25, except referees and adjusters employed by the department of labor and industry;
- (10) patient and inmate help in state charitable, penal, and correctional institutions including the Minnesota veterans home;
- (11) persons employed for professional services where the service is incidental to regular professional duties and whose compensation is paid on a per diem basis;
- (12) employees of the Sibley House Association;
- (13) the members of any state board or commission who serve the state intermittently and are paid on a per diem basis; the secretary, secretary-treasurer, and treasurer of those boards if their compensation is ~~\$500~~ \$5,000 or less per year, or, if they are legally prohibited from serving more than ~~two consecutive terms~~ three years and their total service is required by law to be less than ~~ten~~ three years; and the board of managers of the state agricultural society and its treasurer unless the treasurer is also its full-time secretary;
- (14) state troopers;
- (15) temporary employees of the Minnesota state fair employed on or after July 1 for a period not to extend beyond October 15 of that year; and persons employed at any time by the state fair administration for special events held on the fairgrounds;

(16) emergency employees in the classified service; except that if an emergency employee, within the same pay period, becomes a provisional or probationary employee on other than a temporary basis, the employee shall be considered a "state employee" retroactively to the beginning of the pay period;

(17) persons described in section 352B.01, subdivision 2, clauses (2) to (5);

(18) temporary employees in the classified service, temporary employees in the unclassified service appointed for a definite period of not more than six months and employed less than six months in any one-year period and seasonal help in the classified service employed by the department of revenue;

(19) trainee employees, except those listed in subdivision 2a, clause (10);

(20) persons whose compensation is paid on a fee basis;

(21) state employees who in any year have credit for 12 months service as teachers in the public schools of the state and as teachers are members of the teachers retirement association or a retirement system in St. Paul, Minneapolis, or Duluth;

(22) employees of the adjutant general employed on an unlimited intermittent or temporary basis in the classified and unclassified service for the support of army and air national guard training facilities;

(23) chaplains and nuns 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, if no irrevocable election of coverage has been made under section 3121(r) of the Internal Revenue Code of 1954, as amended;

(24) examination monitors employed by departments, agencies, commissions, and boards to conduct examinations required by law;

(25) members of appeal tribunals, exclusive of the chair, to which reference is made in section 268.10, subdivision 4;

(26) persons appointed to serve as members of fact-finding commissions or adjustment panels, arbitrators, or labor referees under chapter 179;

(27) temporary employees employed for limited periods under any state or federal program for training or rehabilitation including persons employed for limited periods from areas of economic distress except skilled and supervisory personnel and persons having civil service status covered by the system;

(28) full-time students employed by the Minnesota historical society intermittently during part of the year and full-time during the summer months;

(29) temporary employees, appointed for not more than six months, of the metropolitan council and of any of its statutory boards, if the board members are appointed by the metropolitan council;

(30) persons employed in positions designated by the department of employee relations as student workers;

~~(31) any person who is 65 years of age or older when appointed and who does not have allowable service credit for previous employment, unless the employee gives notice to the director within 60 days after appointment that coverage is desired;~~

(32) members of trades employed by the metropolitan waste control commission with trade union pension plan coverage under a collective bargaining agreement first employed after June 1, 1977;

~~(33)~~ (32) persons employed in subsidized on-the-job training, work experience, or public service employment as enrollees under the federal Comprehensive Employment and Training Act after March 30, 1978, unless the person has as of the later of March 30, 1978, or the date of employment sufficient service credit in the retirement system to meet the minimum vesting requirements for a deferred annuity, or the employer agrees in writing on forms prescribed by the director to make the required employer contributions, including any employer additional contributions, on account of that person from revenue sources other than funds provided under the federal Comprehensive Employment and Training Act, or the person agrees in writing on forms prescribed by the director to make the required employer contribution in addition to the required employee contribution;

(34) (33) off-duty peace officers while employed by the metropolitan transit commission under section 629.40, subdivision 5; and

(35) (34) persons who are employed as full-time firefighters by the department of military affairs and as firefighters are members of the public employees police and fire fund; and

(35) foreign citizens with a work permit of less than three years, or an H-1b/IV visa valid for less than three years of employment, unless notice of extension is supplied which allows them to work for three or more years as of the date the extension is granted, in which case they are eligible for coverage from the date extended.

Sec. 4. Minnesota Statutes 1992, section 352.03, subdivision 6, is amended to read:

Subd. 6. [DUTIES AND POWERS OF EXECUTIVE DIRECTOR.] The management of the system is vested in the director, who is the executive and administrative head of the system. The director shall be advisor to the board on matters pertaining to the system and shall also act as the secretary of the board. The director shall:

- (1) attend meetings of the board;
- (2) prepare and recommend to the board appropriate rules to carry out this chapter;
- (3) establish and maintain an adequate system of records and accounts following recognized accounting principles and controls;
- (4) designate an assistant director with the approval of the board;
- (5) appoint any employees, both permanent and temporary, that are necessary to carry out the provisions of this chapter;
- (6) organize the work of the system as the director deems necessary to fulfill the functions of the system, and define the duties of its employees and delegate to them any powers or duties, subject to the control of the director and under conditions the director may prescribe. Appointments to exercise delegated power must be by written order and shall be filed with the secretary of state;
- (7) with the advice and consent of the board, contract for the services of an approved actuary, professional management services, and any other consulting services as necessary and fix the compensation for those services. The contracts are not subject to competitive bidding under chapter 16B. Any approved actuary retained by the executive director shall function as the actuarial advisor of the board and the executive director, and may perform actuarial valuations and experience studies to supplement those performed by the actuary retained by the legislative commission on pensions and retirement. Any supplemental actuarial valuations or experience studies shall be filed with the executive director of the legislative commission on pensions and retirement. Professional management services may not be contracted for more often than once in six years. Copies of professional management survey reports must be transmitted to the secretary of the senate, the chief clerk of the house of representatives, and the legislative reference library as provided by section 3.195, to the executive director of the commission and to the legislative auditor at the time as reports are furnished to the board. Only management firms experienced in conducting management surveys of federal, state, or local public retirement systems are qualified to contract with the director;
- (8) with the advice and consent of the board provide in-service training for the employees of the system;
- (9) make refunds of accumulated contributions to former state employees and to the designated beneficiary, surviving spouse, legal representative, or next of kin of deceased state employees or deceased former state employees, as provided in this chapter;
- (10) determine the amount of the annuities and disability benefits of employees covered by the system and authorize payment of the annuities and benefits beginning as of the dates on which the annuities and benefits begin to accrue, in accordance with the provisions of this chapter;
- (11) pay annuities, refunds, survivor benefits, salaries, and necessary operating expenses of the system;
- (12) certify funds available for investment to the state board of investment;

(13) with the advice and approval of the board request the state board of investment to sell securities when the director determines that funds are needed for the system;

(14) prepare and submit to the board and the legislature an annual financial report covering the operation of the system, as required by section 356.20;

(15) prepare and submit biennial and quarterly annual budgets to the board and with the approval of the board submit the budgets to the department of finance; and

(16) with the approval of the board, perform other duties required to administer the retirement and other provisions of this chapter and to do its business.

Sec. 5. Minnesota Statutes 1992, section 352.04, subdivision 9, is amended to read:

Subd. 9. [ERRONEOUS DEDUCTIONS, CANCELED WARRANTS.] (a) Deductions taken from the salary of an employee for the retirement fund in error must, upon discovery and verification by the department making the deduction, be refunded to the employee.

(b) If a deduction for the retirement fund is taken from a salary warrant or check, and the check is canceled or the amount of the warrant or check returned to the funds of the department making the payment, the sum deducted, or the part of it required to adjust the deductions, must be refunded to the department or institution if the department applies for the refund on a form furnished by the director. The department's payments must likewise be refunded to the department.

(c) Employee deductions and employer contributions taken in error may be directly transferred, without interest, to another Minnesota public employee retirement fund listed in section 356.30, subdivision 3, by which the employee is actually covered.

Sec. 6. Minnesota Statutes 1992, section 352.113, subdivision 2, is amended to read:

Subd. 2. [APPLICATION; ACCRUAL OF BENEFITS.] An employee making claim for a total and permanent disability benefit, or someone acting on behalf of the employee upon proof of authority satisfactory to the director, shall file a written application for benefits in the office of the system. The application must be in a form and manner prescribed by the executive director. The benefit shall begin to accrue the day following the start of disability or the day following the last day paid, whichever is later, but not earlier than ~~60~~ 180 days before the date the application is filed with the director.

Sec. 7. Minnesota Statutes 1992, section 352.113, subdivision 4, is amended to read:

Subd. 4. [MEDICAL EXAMINATIONS; AUTHORIZATION FOR PAYMENT OF BENEFIT.] An applicant shall provide medical evidence to support an application for total and permanent disability. The director shall have the employee examined by at least one additional licensed physician designated by the medical adviser. The physicians shall make written reports to the director concerning the employee's disability including medical opinions as to whether the employee is permanently and totally disabled within the meaning of section 352.01, subdivision 17. The director shall also obtain written certification from the employer stating whether the employment has ceased or whether the employee is on sick leave of absence because of a disability that will prevent further service to the employer and as a consequence the employee is not entitled to compensation from the employer. The medical adviser shall consider the reports of the physicians and any other evidence supplied by the employee or other interested parties. If the medical adviser finds the employee totally and permanently disabled, the adviser shall make appropriate recommendation to the director in writing together with the date from which the employee has been totally disabled. The director shall then determine if the disability occurred within 180 days of filing the application, while still in the employment of the state, and the propriety of authorizing payment of a disability benefit as provided in this section. A terminated employee may apply for a disability benefit within 180 days of termination as long as the disability occurred while in the employment of the state. The employee must be on approved leave of absence from the employer to be eligible to apply for a total and permanent disability benefit, but the fact that an employee is placed on leave of absence without compensation because of disability does not bar that employee from receiving a disability benefit. Unless payment of a disability benefit has terminated because the employee is no longer totally disabled, or because the employee has reached normal retirement age as provided in this section, the disability benefit shall cease with the last payment received by the disabled employee or which had accrued during the lifetime of the employee unless there is a spouse surviving; in that event the surviving spouse is entitled to the disability benefit for the calendar month in which the disabled employee died.

Sec. 8. Minnesota Statutes 1992, section 352.113, subdivision 7, is amended to read:

Subd. 7. [PARTIAL REEMPLOYMENT.] If the disabled employee resumes a gainful occupation from which earnings are less than the employee's salary at the date of disability or the salary currently paid for similar positions, the director shall continue the disability benefit in an amount which when added to earnings does not exceed the salary at the date of disability ~~or the salary currently paid for similar positions, whichever is lower~~, provided the disability benefit in this case does not exceed the disability benefit originally allowed. Deductions for the retirement fund must not be taken from the salary of a disabled employee who is receiving a disability benefit as provided in this subdivision.

Sec. 9. Minnesota Statutes 1992, section 352.115, subdivision 8, is amended to read:

Subd. 8. [ACCRUAL OF ANNUITY.] State employees shall apply for an annuity. The application must not be made more than 60 90 days before the time the employee is eligible to retire by reason of both age and service requirements. If the director determines an applicant for annuity has fulfilled the legal requirements for an annuity, the director shall authorize the annuity payment in accordance with this chapter and payment must be made as authorized. An annuity shall begin to accrue no earlier than 60 180 days before the date the application is filed with the director, but not before the day following the termination of state service or before the day the employee is eligible to retire by reason of both age and service requirements. The retirement annuity shall cease with the last payment which had accrued during the lifetime of the retired employee unless an optional annuity provided in section 352.116, subdivision 3, had been selected and had become payable. The joint and last survivor annuity shall cease with the last payment received by the survivor during the lifetime of the survivor. If a retired employee had not selected an optional annuity, or a survivor annuity is not payable under the option, and a spouse survives, the spouse is entitled only to the annuity for the calendar month in which the retired employee died. If an optional annuity is payable after the death of the retired employee, the survivor is entitled to the annuity for the calendar month in which the retired employee died.

Sec. 10. Minnesota Statutes 1992, section 352.12, subdivision 1, is amended to read:

Subdivision 1. [DEATH BEFORE TERMINATION OF SERVICE.] If an employee dies before state service has terminated and neither a survivor annuity nor a reversionary annuity is payable, or if a former employee who has sufficient service credit to be entitled to an annuity dies before the benefit has become payable, the director shall make a refund to the last designated beneficiary or, if there is none, to the surviving spouse or, if none, to the employee's surviving children in equal shares or, if none, to the employee's surviving parents in equal shares or, if none, to the representative of the estate in an amount equal to the accumulated employee contributions plus interest at the rate of six percent per annum compounded annually. Interest must be computed to the first day of the month in which the refund is processed and based on fiscal year balances. Upon the death of an employee who has received a refund that was later repaid in full, interest must be paid on the repaid refund only from the date of repayment. If the repayment was made in installments, interest must be paid only from the date installment payments began. The designated beneficiary, surviving spouse, or representative of the estate of an employee who had received a disability benefit is not entitled to interest upon any balance remaining to the decedent's credit in the fund at the time of death, unless death occurred before any payment could be negotiated.

Sec. 11. Minnesota Statutes 1992, section 352.12, subdivision 3, is amended to read:

Subd. 3. [REFUND OF \$1,500 \$3,000 OR LESS.] If a state employee or former state employee dies without having designated a beneficiary, or if the beneficiary should die before applying for refund of the sum to the credit of the deceased employee or former employee, and there is no surviving spouse, and the amount of the refund does not exceed ~~\$1,500~~ \$3,000 exclusive of interest, the director may refund the amount to the deceased or former employee's next of kin. The amount may be refunded 90 days after the date of death of the employee or former employee in the absence of probate proceedings, and upon proper application. The next of kin must be determined by the director with the concurrence of the board, to be entitled to the refund consistent with the laws of descent. A determination and payment without notice are conclusive and final and are a bar against claims of all other persons.

Sec. 12. Minnesota Statutes 1992, section 352.12, subdivision 4, is amended to read:

Subd. 4. [REFUND TO MINOR BENEFICIARY.] If an employee or former employee dies having named as a beneficiary a person who is a minor at the time of the application for refund, and the amount of the refund does not exceed ~~\$1,500~~ \$3,000, exclusive of interest, the director in the absence of guardianship or probate proceedings may make payment to the natural guardian having custody of the minor beneficiary, for the benefit of the child. Any annuity, retirement allowance, or disability benefit accrued at the time of death of a disabled or retired employee, payable to a minor beneficiary, may similarly be paid. Payment is a bar to recovery by any other person or persons.

Sec. 13. Minnesota Statutes 1992, section 352.12, subdivision 7, is amended to read:

Subd. 7. [ABSENCE OF OPTIONAL OR REVERSIONARY ANNUITY.] Upon the death of a retired employee who selected neither an optional annuity or a reversionary annuity, a refund must be paid in an amount equal to the excess, if any, of the accumulated contributions to the credit of the retired employee immediately before retirement in excess of the sum of (1) all annuities, retirement allowances, and disability benefits that had been received and had accrued in the lifetime of the decedent, and (2) the annuity, retirement allowance, or disability benefit if applicable not negotiated, payable to the surviving spouse under section 352.115, subdivision 8, or 352.113, subdivision 4, for the calendar month in which the retired employee died. The refund must be paid to the named beneficiary or, if there be none, to the surviving spouse or, if none, to the employee's surviving children in equal shares or, if none, to the employee's surviving parents in equal shares or, if none, to the representative of the estate.

Sec. 14. Minnesota Statutes 1992, section 352.12, subdivision 10, is amended to read:

Subd. 10. [DEATH OF BENEFICIARY BEFORE REFUND.] If the last designated beneficiary or beneficiaries and the surviving spouse of a (1) deceased employee, (2) former employee, or (3) retired employee, dies before receiving a refund of the sum to the credit of the deceased employee, former employee, or retired employee at the time of death, the refund must be made to the estate of the deceased employee or as provided in subdivision 3 if the amount of the refund does not exceed ~~\$1,500~~ \$3,000 exclusive of interest.

Sec. 15. Minnesota Statutes 1992, section 352.12, subdivision 13, is amended to read:

Subd. 13. [REFUND, BENEFICIARY.] If upon death a former employee has in possession a commissioner of finance's warrant which does not exceed ~~\$500~~ \$1,000 covering a refund of accumulated contributions in the retirement fund, in the absence of probate proceedings the commissioner of finance's warrant may be returned for cancellation, and then upon application made by the last designated beneficiary of the deceased former employee, refund of the accumulated contributions must be paid to the last designated beneficiary. Payments made under this subdivision are a bar to recovery by any other person or persons.

Sec. 16. Minnesota Statutes 1992, section 352.15, subdivision 1a, is amended to read:

Subd. 1a. [AUTOMATIC DEPOSITS.] The executive director may pay an annuity, benefit, or refund to a banking institution, qualified under chapter 48, that is trustee for a person eligible to receive the annuity, benefit, or refund. Upon the request of a retired, disabled, or former employee, the executive director may mail the annuity, benefit, or refund check to a banking institution, savings association, or credit union for deposit to the employee's account or joint account ~~with a spouse~~. The board of directors may prescribe the conditions under which payments will be made.

Sec. 17. Minnesota Statutes 1992, section 352.85, subdivision 4, is amended to read:

Subd. 4. [ELECTION OF COVERAGE.] To be covered by ~~Laws 1980, chapter 607~~ section 352.85, any employee of the department of military affairs, described in subdivision 1, ~~who is employed on July 1, 1980, or is first employed after July 1, 1980,~~ must file a notice with the executive director of the system on a form prescribed by the executive director stating whether or not the employee elects to be covered. Notice must be filed ~~by August 1, 1980, or within 30 90 days of employment, whichever is later.~~ Elections are irrevocable during any period of covered employment.

Sec. 18. Minnesota Statutes 1992, section 352.93, subdivision 2a, is amended to read:

Subd. 2a. [EARLY RETIREMENT.] Any covered correctional employee, or former employee if service ended after June 30, 1989, who becomes at least 50 years old and who has at least three years of allowable service is entitled upon application to a retirement annuity equal to the normal annuity calculated under subdivision 2, reduced so that the reduced annuity is the actuarial equivalent of the annuity that would be payable if the employee deferred receipt of the annuity from the day the annuity begins to accrue to age 55.

Sec. 19. Minnesota Statutes 1992, section 352.94, is amended to read:

352.94 [AUGMENTATION FOR EMPLOYEES WITH REGULAR GENERAL AND CORRECTIONAL SERVICE.]

~~Subdivision 1. [CHANGE FROM REGULAR TO CORRECTIONAL SERVICE.]~~ An employee who becomes a covered by the correctional employee plan after serving as a regular general plan covered employee, or becomes covered by the general plan after serving as a correctional plan covered employee, is covered under section 352.72, subdivision 2, ~~with respect to the regular service.~~

~~Subd. 2. [CHANGE FROM CORRECTIONAL TO REGULAR SERVICE.] An employee who becomes a regular employee after serving as a correctional employee is not covered under section 352.72, subdivision 2, with respect to correctional service.~~

Sec. 20. Minnesota Statutes 1992, section 352.95, subdivision 3, is amended to read:

Subd. 3. [APPLYING FOR BENEFITS; ACCRUAL.] No application for disability benefits shall be made until after the last day physically on the job. The disability benefit shall begin to accrue the day following the last day for which the employee is paid sick leave or annual leave but not earlier than 60 180 days before the date the application is filed.

Sec. 21. Minnesota Statutes 1992, section 352.951, is amended to read:

352.951 [APPLICABILITY OF GENERAL LAW.]

Except as otherwise provided, this chapter applies to covered correctional employees, military affairs personnel covered under section 352.85, and transportation department pilots covered under section 352.86.

Sec. 22. Minnesota Statutes 1992, section 352B.08, subdivision 1, is amended to read:

Subdivision 1. [WHO IS ELIGIBLE; WHEN TO APPLY; ACCRUAL.] Every member who is credited with three or more years of allowable service is entitled to separate from state service and upon becoming 55 50 years old, is entitled to receive a life annuity, upon separation from state service. Members shall apply for an annuity in a form and manner prescribed by the executive director. No application may be made more than 60 90 days before the date the member is eligible to retire by reason of both age and service requirements. An annuity begins to accrue no earlier than 90 180 days before the date the application is filed with the executive director.

Sec. 23. Minnesota Statutes 1992, section 352B.08, subdivision 2a, is amended to read:

Subd. 2a. [EARLY RETIREMENT.] Any member who has become at least 50 years old, or former member if service ended after June 30, 1989, and who has at least three years of allowable service is entitled upon application to a retirement annuity equal to the normal annuity calculated under subdivision 2, reduced so that the reduced annuity is the actuarial equivalent of the annuity that would be payable if the member deferred receipt of the annuity from the day the annuity begins to accrue to age 55.

Sec. 24. Minnesota Statutes 1992, section 352B.101, is amended to read:

352B.101 [APPLICATION FOR DISABILITY BENEFIT.]

A member claiming a disability benefit must file a written application for benefits in the office of the system in a form and manner prescribed by the executive director. The member shall provide medical evidence to support the application. The benefit begins to accrue the day following the start of disability or the day following the last day for which the member was paid, whichever is later, but not earlier than 90 180 days before the date the application is filed with the executive director.

Sec. 25. Minnesota Statutes 1992, section 352C.01, is amended to read:

352C.01 [LEGISLATIVE FINDING AND INTENT.]

The legislature finds that service to Minnesota in the capacity of a constitutional officer ~~or commissioner~~ as defined in section 352C.021 constitutes a unique contribution to the state and that such service is dissimilar to any other public employment. The legislature further finds that service as a constitutional officer ~~or commissioner~~ for a period of eight years or longer deprives the individual so serving of normal opportunities to establish retirement benefits in a usual vocational pursuit and justifies adoption of special retirement provisions. The provisions of this chapter are intended by the legislature to reflect the unique nature of service as a constitutional officer ~~or commissioner~~ and to have due regard for the unusual disruption of normal retirement planning that such service entails.

Sec. 26. Minnesota Statutes 1992, section 352C.021, is amended to read:

352C.021 [DEFINITIONS.]

Subdivision 1. [TERMS.] For purposes of this chapter, the following terms shall have the meanings given to them unless the language or context clearly indicates that a different meaning is intended.

Subd. 2. [CONSTITUTIONAL OFFICER.] "Constitutional officer" means a person who was duly elected and qualified and is serving as governor, lieutenant governor, attorney general, secretary of state, state auditor or state treasurer of the state of Minnesota.

Subd. 3. ~~[COMMISSIONER.] "Commissioner" means a person who was duly elected and qualified and is serving as an elected member of the public utilities commission of the state of Minnesota.~~

Subd. 4. ~~[FORMER CONSTITUTIONAL OFFICER OR COMMISSIONER.] "Former constitutional officer or commissioner" means a person who has ceased to be a constitutional officer or commissioner subsequent to April 21, 1976 for any reason, including but not limited to the expiration of the term of office for which the person was elected, retirement or death.~~

Subd. 5. 4. [SURVIVING SPOUSE.] "Surviving spouse" means the unmarried spouse of a deceased constitutional officer ~~or commissioner~~ or former constitutional officer ~~or commissioner~~.

Subd. 6. 5. [DEPENDENT CHILD.] "Dependent child" means any natural or adopted child of a deceased constitutional officer ~~or commissioner~~ or a deceased former constitutional officer ~~or commissioner~~ who is under the age of 18, or who is under the age of 22 and is a full-time student, and who in either case is unmarried and was actually dependent for more than one-half of the child's support upon the constitutional officer ~~or commissioner~~ or the former constitutional officer ~~or commissioner~~ for a period of least 90 days immediately prior to the death of the constitutional officer ~~or commissioner~~ or the former constitutional officer ~~or commissioner~~. The term shall also include a posthumous child of the constitutional officer ~~or commissioner~~ or the former constitutional officer ~~or commissioner~~.

Subd. 7. 6. [ALLOWABLE SERVICE.] "Allowable service" means any years or months of service as a constitutional officer ~~or as a commissioner, for which service if the person made the contributions required by section 352C.09 on a current basis. The service need not be continuous. For any constitutional officer or commissioner or former constitutional officer or commissioner in office on or before July 1, 1967, allowable service shall include any service as a constitutional officer or commissioner prior to July 1, 1967, notwithstanding that the person did not make concurrent contributions as required by section 352C.09.~~

Subd. 8. 7. [DIRECTOR.] "Director" means the executive director of the Minnesota state retirement system.

Sec. 27. Minnesota Statutes 1992, section 352C.031, is amended to read:

352C.031 [RETIREMENT ALLOWANCE.]

Subdivision 1. [UNREDUCED RETIREMENT ALLOWANCE.] Upon separation from service, a former constitutional officer ~~or commissioner~~ who has attained the age of at least 62 years and who has at least eight years of allowable service is entitled upon making written application on forms supplied by the director to a normal retirement allowance.

Subd. 2. [REDUCED RETIREMENT ALLOWANCE.] Upon separation from service, a former constitutional officer ~~or commissioner~~ who has attained the age of at least 60 years and who has at least eight years of allowable service is entitled upon making written application on forms supplied by the director to a retirement allowance in an amount equal to a normal retirement allowance reduced by one-half of one percent for each month that the former constitutional officer ~~or commissioner~~ is under age 62.

Subd. 3. [AVERAGE SALARY.] Average salary for purposes of calculating the normal retirement allowance pursuant to subdivision 4 shall mean the average of the highest five successive years of salary upon which contributions have been made pursuant to section 352C.09.

Subd. 4. [RETIREMENT ALLOWANCE FORMULA.] The average salary multiplied by 2-1/2 percent for each year of allowable service and pro rata for completed months less than a full year shall determine the amount of the normal retirement allowance.

Subd. 5. [BENEFIT ACCRUAL AND TERMINATION.] The benefit shall begin to accrue the first day of the month in which the application is received by the director but in no event earlier than the day following the termination of service or the attainment of the age required to receive such benefit, whichever is later. Thereafter, benefits shall be paid on the first day of each calendar month for that month. The benefit shall cease with the payment for the month in which the retired constitutional officer ~~or commissioner~~ died.

Subd. 6. [PAYMENT OF RETIREMENT ALLOWANCES.] Retirement allowances payable pursuant to this section shall be paid monthly by the executive director of the Minnesota state retirement system.

Sec. 28. Minnesota Statutes 1992, section 352C.033, is amended to read:

352C.033 [DEFERRED ANNUITIES AUGMENTATION.]

The deferred retirement allowance for any former constitutional officer ~~or commissioner~~ shall be augmented as provided in this section. The required reserves applicable to the deferred retirement allowance, determined as of the date the retirement allowance begins to accrue using the appropriate mortality table and an interest assumption of five percent, shall be augmented from the first of the month following termination of service as a constitutional officer ~~or commissioner~~, or January 1, 1979, whichever is later, to the first day of the month in which the annuity begins to accrue, at the rate of five percent per annum compounded annually until January 1, 1981, and thereafter at the rate of three percent per annum compounded annually until January 1 of the year in which the former constitutional officer ~~or commissioner~~ attains age 55. From that date to the effective date of retirement, the rate is five percent compounded annually.

Sec. 29. Minnesota Statutes 1992, section 352C.04, is amended to read:

352C.04 [SPOUSE'S AND DEPENDENT CHILDREN'S SURVIVOR BENEFITS.]

Subdivision 1. [SURVIVING SPOUSE BENEFIT.] Upon the death of a constitutional officer ~~or commissioner~~ while actively serving in office, or a former constitutional officer ~~or commissioner~~ with at least eight years of allowable service, the surviving spouse is entitled to a survivor benefit in the amount of one-half of the retirement allowance of the constitutional officer ~~or commissioner~~ or the former constitutional officer ~~or commissioner~~ computed as though the constitutional officer ~~or commissioner~~ or the former constitutional officer ~~or commissioner~~ were at least age 62 on the date of death and based upon the attained allowable service or eight years, whichever is greater. The augmentation provided in section 352C.033, if applicable, shall be applied to the month of death. Upon the death of a former constitutional officer ~~or commissioner~~ receiving a retirement allowance, the surviving spouse shall be entitled to one-half of the amount of the retirement allowance being paid to the former constitutional officer ~~or commissioner~~ as of the date of death. The benefit shall be paid to a surviving spouse eligible therefor during the remainder of the spouse's natural life.

Subd. 2a. [SURVIVING DEPENDENT CHILD BENEFIT.] Upon the death of a constitutional officer ~~or commissioner~~ while serving in office, or a former constitutional officer ~~or commissioner~~ with at least eight years of allowable service, each dependent child shall be paid a survivor benefit in the following amount: First dependent child, a monthly benefit which equals 25 percent of the monthly retirement allowance of the constitutional officer ~~or commissioner~~ computed as though the constitutional officer ~~or commissioner~~ or the former constitutional officer ~~or commissioner~~ were at least age 62 on the date of death and based upon the attained allowable service or eight years, whichever is greater; for each additional dependent child or a monthly benefit which equals 12-1/2 percent of the monthly retirement allowance of the constitutional officer ~~or commissioner~~ or the former constitutional officer ~~or commissioner~~ computed as in the case of the first child; but the total amount paid to the surviving spouse and dependent children shall not exceed in any one month 100 percent of the monthly allowance of the constitutional officer ~~or commissioner~~ or the former constitutional officer ~~or commissioner~~ computed as in the case of the first child. The augmentation provided in subdivision 1, if applicable, shall be applied to the month of death. Upon the death of a former constitutional officer ~~or commissioner~~ receiving a retirement allowance, the surviving dependent child shall be entitled to the applicable percentage of the amount of the retirement allowance being paid to the former constitutional officer ~~or commissioner~~ as of the date of death. The payments for dependent children shall be made to the surviving spouse or the guardian of the estate of the dependent child, if there is one. A posthumous child qualifies as a dependent child for benefits provided herein from the date of its birth.

Subd. 3. [PAYMENT INTERVAL.] Spouse's and dependent children's survivor benefits, payable under this section, shall be paid monthly by the executive director of the Minnesota state retirement system.

Subd. 4. [APPLICATION FOR SURVIVOR BENEFITS.] A surviving spouse or a guardian of the estate of the dependent child or children entitled to the payment of benefits under this section shall file an application for the benefit with the director, and payment shall commence as of the first day of the month next following the filing of the application and shall be retroactive to the first of the month following the death of the constitutional officer ~~or commissioner~~ or the former constitutional officer ~~or commissioner~~; provided, however, that no payment shall be retroactive for more than 12 months prior to the month in which the application is filed with the director. Such benefits shall be paid on the first day of each calendar month for that month. The surviving spouse benefit shall cease with the payment for the month in which the surviving spouse dies. The dependent child's benefit shall cease with the payment for the month in which the child no longer qualifies for payment as a dependent child.

Sec. 30. Minnesota Statutes 1992, section 352C.051, is amended to read:

352C.051 [COVERAGE BY MORE THAN ONE RETIREMENT SYSTEM OR ASSOCIATION.]

Subdivision 1. [ENTITLEMENT TO ANNUITY; LEGISLATIVE SERVICE.] Any constitutional officer ~~or commissioner~~ who has been a member of the legislature with service credited pursuant to chapter 3A shall be entitled when qualified to a retirement allowance from the legislator's retirement plan and the elective state officers plan if the total allowable service for which the person has credit in the two plans totals eight or more years, provided that no portion of the allowable service upon which the retirement allowance from one plan is based, is again used in the computation for benefits from the other plan. The retirement allowance from each plan shall be determined by the appropriate provisions of the law governing each plan, except that the requirement that a person must have at least eight years of allowable service in the respective plan shall not apply for purposes of this section, provided that the aggregate service in the two plans equals eight or more years. The augmentation of deferred annuities provided in sections 3A.02, subdivision 4, and 352C.033, shall apply to the retirement allowances accruing hereunder.

Subd. 2. [ENTITLEMENT TO ANNUITY; PUBLIC RETIREMENT SERVICE.] Any constitutional officer ~~or commissioner~~ who has been an employee covered by the Minnesota state retirement system, or a member of the public employees retirement association including the public employees retirement association police and fire fund, or the teachers retirement association, or the Minneapolis employees retirement fund, or the state patrol retirement association, or any other public employee retirement system in the state of Minnesota having a like provision, but excluding all other funds providing retirement benefits for police and firefighters, shall be entitled when qualified to an annuity from each fund if the person's total allowable service credit in all funds or in any two of these funds totals ~~ten~~ eight or more years, provided no portion of the allowable service upon which the retirement annuity from one fund is based is again used in the computation for benefits from another fund. The annuity from each fund shall be determined by the appropriate provisions of the law governing each fund, except that the requirement that a person must have at least ~~ten~~ eight years allowable service in the respective system or association shall not apply for the purposes of this section, provided that the aggregate service in two or more of these funds equals ~~ten~~ eight or more years. The augmentation of deferred annuities provided in section 352C.033 shall apply to the annuities accruing hereunder.

Subd. 3. [REFUND REPAYMENT.] Any former constitutional officer ~~or commissioner~~ who has received a refund as provided in section 352C.09, subdivision 2, who is a currently contributing member of a retirement fund specified or enumerated in subdivision 1 or 2, may repay the refund to the elective state officers retirement plan, with interest at an annual rate of 8.5 percent compounded annually.

Sec. 31. Minnesota Statutes 1992, section 352C.09, is amended to read:

352C.09 [CONTRIBUTIONS.]

Subdivision 1. Every constitutional officer ~~or commissioner~~ shall contribute ~~eight percent of total salary beginning the first full pay period after July 1, 1976, and nine percent of total salary beginning the first full pay period after January 1, 1979,~~ by payroll deduction, to be paid into the state treasury and deposited in the general fund. In case of retirement any unpaid deductions shall be deducted from any retirement allowance that becomes payable. All deductions and payments, if any, in lieu of deductions are to be paid into the state treasury and deposited in the general fund. It shall be the duty of the director to record the contributions of each constitutional officer ~~or commissioner~~ and credit such contribution to such officer's ~~or commissioner's~~ account.

Subd. 2. (1) Any person who has made contributions pursuant to subdivision 1 who is no longer a constitutional officer ~~or commissioner~~ is entitled to receive upon application to the director a refund of all contributions credited to the individual's account with interest at the rate of six percent per annum compounded annually.

(2) The refund of contributions as provided in clause (1) above terminates all rights of a former constitutional officer or commissioner or survivors thereof under the provisions of this chapter. Should the former constitutional officer or commissioner again hold such office after having taken a refund as provided above, the former officer or commissioner shall be considered a new member and may reinstate the rights and credit for service forfeited provided all refunds previously taken are repaid with interest at an annual rate of 8.5 percent compounded annually.

(3) No person shall be required to apply for or accept a refund.

(4) The provisions of section 352.15 shall apply to the elective state officers retirement plan, chapter 352C.

Sec. 32. Minnesota Statutes 1992, section 352D.015, subdivision 4, is amended to read:

Subd. 4. "~~Regular~~ General fund" means the state employees retirement fund except the moneys for the unclassified program.

Sec. 33. Minnesota Statutes 1992, section 352D.04, subdivision 1, is amended to read:

Subdivision 1. (a) An employee exercising an option to participate in the retirement program provided by this chapter may elect to purchase shares in one or a combination of the income share account, the growth share account, the money market account, the bond market account, the fixed interest account, or the common stock index account established in section 11A.17. The employee may elect to participate in one or more of the investment accounts in the fund by specifying, on a form provided by the executive director, the percentage of the employee's contributions provided in subdivision 2 to be used to purchase shares in each of the accounts.

(b) ~~Twice in any calendar year,~~ A participant may indicate in writing on forms provided by the Minnesota state retirement system a choice of options for subsequent purchases of shares. Until a different written indication is made by the participant, the executive director shall purchase shares in the supplemental fund as selected by the participant. If no initial option is chosen, 100 percent income shares must be purchased for a participant. A change in choice of investment option is effective no later than the first pay date first occurring after 30 days following the receipt of the request for a change.

(c) One month before the start of a new guaranteed investment contract, a participant or former participant may elect to transfer all or a portion of the participant's shares previously purchased in the income share, growth share, common stock index, bond market, or money market accounts to the new guaranteed investment contract in the fixed interest account. Upon expiration of a guaranteed investment contract, the participant's shares attributable to that contract must be transferred to a new guaranteed investment contract unless the executive director is otherwise directed by the participant. Shares in the fixed interest account may not be withdrawn from the fund or transferred to another account until the guaranteed investment contract has expired, unless the participant qualifies for withdrawal under section 352D.05 or for benefit payments under sections 352D.06 to 352D.075.

(d) ~~Twice in any calendar year~~ A participant or former participant may also change the investment options selected for all or a portion of the participant's shares previously purchased in accounts other than the fixed interest account. Changes in investment options for the participant's shares must be effected as soon as cash flow to an account practically permits, but not later than six months after the requested change.

Sec. 34. Minnesota Statutes 1992, section 352D.05, subdivision 1, is amended to read:

Subdivision 1. ~~Except as authorized by section 352D.06,~~ No withdrawal of shares shall be permitted prior to termination of covered employment.

Sec. 35. Minnesota Statutes 1992, section 352D.05, subdivision 3, is amended to read:

Subd. 3. ~~Thirty days~~ After termination of covered employment or at any time thereafter, a participant is entitled, upon application, to withdraw the cash value of the participant's total shares or leave such shares on deposit with the supplemental retirement fund. Shares not withdrawn ~~must~~ remain on deposit with the supplemental retirement fund until the former participant becomes at least 55 years old, and applies for an annuity under section 352D.06, subdivision 1.

Sec. 36. Minnesota Statutes 1992, section 352D.09, subdivision 5, is amended to read:

Subd. 5. If the beneficiary, surviving spouse or estate has not made application for benefits within ten years after the date of death of a participant the value of the shares shall be appropriated to the regular fund and provisions of section 352.12, subdivision 12 shall govern. If a former participant fails to make a claim for benefits within five years after termination of covered service or by age 70, whichever is later, the value of the shares shall be appropriated to the regular general employees retirement fund and the provisions of section 352.22, subdivision 8, shall apply.

Sec. 37. Minnesota Statutes 1992, section 352D.09, is amended by adding a subdivision to read:

Subd. 5a. If a former participant who contributed less than \$100 in employee contributions cannot be contacted by the system for five or more years, the value of the shares shall be appropriated to the general employees retirement fund, but upon subsequent contact by the former employee the account shall be reinstated to the amount that would have been payable had the money been left in the unclassified plan.

Sec. 38. Minnesota Statutes 1992, section 352D.09, is amended by adding a subdivision to read:

Subd. 8. [ADMINISTRATIVE CHARGE DEDUCTIONS.] Any administrative charges deducted under subdivision 7 that were in excess of the administrative expenses between July 1, 1973, and June 30, 1992, together with any investment gains or losses based on fiscal year balances, must be recovered from the state employees retirement plan and held in the unclassified plan to pay future administrative expenses. Any deductions to pay administrative expenses under section 11A.17, subdivision 10a, on contributions and investment returns attributable to contributions made before July 1, 1992, must be credited back to the participants in the unclassified plan.

Sec. 39. Minnesota Statutes 1992, section 490.124, subdivision 1, is amended to read:

Subdivision 1. [BASIC RETIREMENT ANNUITY.] Except as qualified hereinafter from and after mandatory retirement date, normal retirement date, early retirement date, or ~~two years~~ one year from the disability retirement date, as the case may be, a retirement annuity shall be payable to a retiring judge from the judges' retirement fund in an amount equal to: (1) 2-1/2 percent of the judge's final average compensation multiplied by the number of years and fractions of years of allowable service rendered prior to July 1, 1980; plus (2) three percent of the judge's final average compensation multiplied by the number of years and fractions of years of allowable service rendered after June 30, 1980; provided that the annuity shall not exceed 65 percent of the judge's annual salary for the 12 months immediately preceding retirement.

Sec. 40. Minnesota Statutes 1992, section 490.124, subdivision 4, is amended to read:

Subd. 4. [DISABILITY RETIREMENT.] From and after disability retirement date, a disabled judge shall be entitled to continuation of the judge's full salary payable by the judge's employer, as if the judge's office were not vacated by retirement, for a period of up to one full year, but in no event beyond the judge's mandatory retirement date. During this year the judge will earn additional service credit. The salary earned will be subject to retirement deductions and will be included in computing final average compensation. Thereafter a disability retirement annuity computed as provided in subdivision 1 shall be paid, provided that the judge shall receive a minimum annuity of 25 percent of the judge's final average compensation.

Sec. 41. [EFFECTIVE DATE.]

Sections 1 to 40 are effective the day following final enactment.

ARTICLE 2

CHANGES TO COMPLY WITH AGE DISCRIMINATION ACT AND HAVING SLIGHT BENEFIT ADJUSTMENT IMPACT

Section 1. Minnesota Statutes 1992, section 3A.02, is amended by adding a subdivision to read:

Subd. 5. [OPTIONAL ANNUITIES.] (a) The board of directors shall establish an optional retirement annuity in the form of a joint and survivor annuity and an optional retirement annuity in the form of a period certain and life thereafter. These optional annuities are to be available only to legislators who elect to receive retirement annuities under section 356.30 and who do not meet the legislative length of service requirements under section 3A.02, subdivision 1, paragraph (a), clause (1). Except as provided in paragraph (b), these optional annuity forms must be actuarially equivalent to the normal annuity computed under section 3A.02, without the automatic survivor coverage under section 3A.04.

(b) If a retired legislator selects the joint and survivor annuity option, the retired legislator must receive a normal single-life annuity if the designated optional annuity beneficiary dies before the retired legislator and no reduction may be made in the annuity to provide for restoration of the normal single-life annuity in the event of the death of the designated optional annuity beneficiary.

Sec. 2. Minnesota Statutes 1992, section 352.03, subdivision 4, is amended to read:

Subd. 4. [DUTIES AND POWERS OF BOARD OF DIRECTORS.] The board shall:

(1) elect a chair;

- (2) appoint an executive director;
- (3) establish rules to administer this chapter and chapters 3A, 352B, 352C, 352D, and 490 and transact the business of the system, subject to the limitations of law;
- (4) consider and dispose of, or take any other action the board of directors deems appropriate concerning denials of applications for annuities or disability benefits under this chapter, and complaints of employees and others pertaining to the retirement of employees and the operation of the system; ~~and~~
- (5) advise the director on any matters relating to the system and carrying out functions and purposes of this chapter. The board's advice shall control; and
- (6) oversee the administration of the state deferred compensation plan, established in section 352.96.

The director and assistant director must be in the unclassified service but appointees may be selected from civil service lists if desired. The salary of the executive director must be as provided by section 15A.081, subdivision 1. The salary of the assistant director must be set in accordance with section 43A.18, subdivision 3.

Sec. 3. Minnesota Statutes 1992, 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. 4. Minnesota Statutes 1992, section 352.22, subdivision 2, is amended to read:

Subd. 2. [AMOUNT OF REFUND.] Except as provided in subdivision 3, any person who ceased to be a state employee ~~after June 30, 1973~~, by reason of termination of state service shall receive a refund in an amount equal to employee accumulated contributions plus interest at the rate of six percent per year compounded annually. Included with the refund is any interest paid as part of repayment of a past refund, plus interest thereon from the date of repayment. 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.

Sec. 5. Minnesota Statutes 1992, section 352.23, is amended to read:

352.23 [TERMINATION OF RIGHTS.]

When any employee accepts a refund as provided in section 352.22, all existing service credits and all rights and benefits to which the employee was entitled before accepting the refund terminate. They must not again be restored until the former employee acquires at least ~~one year's~~ six months of allowable service credit after taking the last refund. In that event, the employee may repay all refunds previously taken from the retirement fund. Repayment of refunds entitles the employee only to credit for service covered by (1) salary deductions; (2) payments made in lieu of salary deductions; ~~and~~ (3) payments made to obtain credit for service as permitted by laws in effect when payment was made. ~~If an employee before taking one or more refunds had credit for prior service or for military service without payment in either case, the employee may obtain credit for any forfeited service before July 1, 1929, and for any forfeited military service by making payments at a contribution rate of three percent of the average salary upon which deductions for the retirement fund were based, for the three year period immediately preceding repayment of refund for service credit before July 1, 1929, and on the salary received at the time of entering military service to restore military service credit; and (4) allowable service once credited while receiving temporary workers' compensation as provided in section 352.01, subdivision 11, clause (5). Payments for purchase of prior military service under this section and for repayment of refunds are to be paid with interest at an annual rate of 8.5 percent compounded annually. They may be paid in a lump sum or by payroll deduction in the manner provided in section 352.04. Payment may be made in a lump sum up to six months after termination from service.~~

Sec. 6. Minnesota Statutes 1992, section 352.95, subdivision 1, is amended to read:

Subdivision 1. [JOB-RELATED DISABILITY.] A covered correctional employee ~~less than 55 years old~~ who becomes disabled and physically unfit to perform the duties of the position as a direct result of an injury, sickness, or other disability incurred in or arising out of any act of duty that makes the employee physically or mentally unable to perform the duties, is entitled to a disability benefit based on covered correctional service only. The benefit amount must equal 50 percent of the average salary defined in section 352.93, plus an additional 2-1/2 percent for each year of covered correctional service in excess of 20 years, prorated for completed months.

Sec. 7. Minnesota Statutes 1992, section 352.95, subdivision 2, is amended to read:

Subd. 2. [NON-JOB-RELATED DISABILITY.] Any covered correctional employee who, after at least one year of covered correctional service, ~~before reaching the age of 55~~ becomes disabled and physically unfit to perform the duties of the position because of sickness or injury occurring while not engaged in covered employment, is entitled to a disability benefit based on covered correctional service only. The disability benefit must be computed as provided in section 352.93, subdivisions 1 and 2, and computed as though the employee had at least 15 years of covered correctional service.

Sec. 8. Minnesota Statutes 1992, section 352.95, subdivision 5, is amended to read:

Subd. 5. [RETIREMENT STATUS AT NORMAL RETIREMENT AGE.] The disability benefit paid to a disabled correctional employee under this section shall terminate at the end of the month in which the employee reaches age 62. If the disabled correctional employee is still disabled when the employee reaches age 62, the employee shall be deemed to be a retired employee. If the employee had elected an optional annuity under subdivision 1a, the employee shall receive an annuity in accordance with the terms of the optional annuity previously elected. If the employee had not elected an optional annuity under subdivision 1a, the employee may ~~then~~ within 90 days of attaining age 65 or reaching the five-year anniversary of the effective date of the disability benefit, whichever is later, either elect to receive a normal retirement annuity computed in the manner provided in section 352.115 or elect to receive an optional annuity as provided in section 352.116, subdivision 3, based on the same length of service as used in the calculation of the disability benefit. Election of an optional annuity must be made ~~before~~ within 90 days before attaining age 65 or reaching age 62 the five-year anniversary of the effective date of the disability benefit, whichever is later. The reduction for retirement before normal retirement age as provided in section 352.116, subdivision 1 or 1a, does not apply. The savings clause provision of section 352.93, subdivision 3, applies. If an optional annuity is elected, the optional annuity shall begin to accrue on the first of the month following the month in which the employee reaches age ~~62~~ 65 or the five-year anniversary of the effective date of the disability benefit, whichever is later.

Sec. 9. Minnesota Statutes 1992, section 352.96, subdivision 3, is amended to read:

Subd. 3. [EXECUTIVE DIRECTOR TO ADMINISTER SECTION.] This section must be administered by the executive director of the system with the advice and consent of the board of directors under subdivision 4. Fiduciary activities of the deferred compensation plan must be undertaken in a manner consistent with chapter 356A. If the state board of investment so elects, it may solicit bids for options under subdivision 2, clauses (2) and (3). All contracts must be approved before execution by the state board of investment. Contracts must provide that all options in subdivision 2 must: be presented in an unbiased manner and in a manner that conforms to rules adopted by the executive director, be reported on a periodic basis to all employees participating in the deferred compensation program, and not be the subject of unreasonable solicitation of state employees to participate in the program. The contract may not call for any person to jeopardize the tax-deferred status of money invested by state employees under this section. All costs or fees in relation to the options provided under subdivision 2, clause (3), must be paid by the underwriting companies ultimately selected by the state board of investment.

Sec. 10. Minnesota Statutes 1992, section 352.96, subdivision 4, is amended to read:

Subd. 4. [EXECUTIVE DIRECTOR TO ESTABLISH RULES.] The executive director of the system with the advice and consent of the board of directors shall establish rules and procedures to carry out this section including allocation of administrative costs against the assets accumulated under this section. Funds to pay these costs are appropriated from the fund or account in which the assets accumulated under this section are placed. The rules established by the executive director must conform to federal and state tax laws, regulations, and rulings, and are not subject to the administrative procedure act. Except for the marketing rules, rules relating to the options provided under subdivision 2, clauses (2) and (3), must be approved by the state board of investment. A state employee must not make payments under a plan until the plan or applicable component of the plan has been approved for tax-deferred status by the Internal Revenue Service.

Sec. 11. Minnesota Statutes 1992, section 352B.01, subdivision 3, is amended to read:

Subd. 3. [ALLOWABLE SERVICES.] "Allowable service" means:

(a) for members defined in subdivision 2, clause (a), service for which payments have been made to the state patrol retirement fund, and

(b) for members defined in subdivision 2, clauses (b) and (c), service for which payments have been made to the state patrol retirement fund, service for which payments were made to the state police officers retirement fund after June 30, 1961, and all prior service which was credited to a member for service on or before June 30, 1961.

~~After a member identified in this clause reaches the age of 60, allowable service after that date must not be computed in determining the normal annuity unless the member was employed as a state police officer before July 1, 1961. If the member was so employed before July 1, 1961, and reaches 60 years of age and has more than 30 years' allowable service at that time, each year and completed month of allowable service acquired by the member must be computed in determining the normal annuity until the member reaches the age of 60. If the member was employed before July 1, 1961, and has less than 30 years of allowable service when the member reaches age 60, each year and completed month of allowable service acquired by the member must be computed in determining the normal annuity not to exceed 30 years of allowable service. The completed year members reach age 60 may be counted in full in determining allowable service. Allowable service also includes any period of absence from duty by a member who, by reason of injury incurred in the performance of duty, is temporarily disabled and for which disability the state is liable under the workers' compensation law, until the date authorized by the executive director for commencement of payment of a disability benefit or return to employment.~~

Sec. 12. Minnesota Statutes 1992, section 352B.10, subdivision 1, is amended to read:

Subdivision 1. [INJURIES, PAYMENT AMOUNTS.] Any member ~~less than 55 years old~~, who becomes disabled and physically or mentally unfit to perform duties as a direct result of an injury, sickness, or other disability incurred in or arising out of any act of duty, shall receive disability benefits while disabled. The benefits must be paid in monthly installments equal to the member's average monthly salary multiplied by 50 percent, plus an additional 2-1/2 percent for each year and pro rata for completed months of service in excess of 20 years, if any.

Sec. 13. Minnesota Statutes 1992, section 352B.10, subdivision 2, is amended to read:

Subd. 2. [~~UNDER 55; DISABLED WHILE NOT ON DUTY.~~] If a member terminates employment after at least one year of service, ~~before reaching the age of 55~~, because of sickness or injury occurring while not on duty and not engaged in state work entitling the member to membership, and the termination is necessary because the member cannot perform duties, the member is entitled to receive a disability benefit. The benefit must be in the same amount and computed in the same way as if the member were 55 years old at the date of disability and the annuity were paid under section 352B.08. If disability under this clause occurs after one but before 15 years service, the disability benefit must be computed as though the member had 15 years service.

Sec. 14. Minnesota Statutes 1992, section 352B.10, subdivision 5, is amended to read:

Subd. 5. [OPTIONAL ANNUITY.] A disabled member may, in lieu of survivorship coverage under section 352B.11, subdivision 2, choose the normal disability benefit or an optional annuity as provided in section 352B.08, subdivision 3. The choice of an optional annuity must be made before commencement of payment of the disability benefit, or within 90 days of attaining age 65 or reaching the five-year anniversary of the effective date of the disability benefit, whichever is later. It is effective on the date on which the disability benefit begins to accrue, or the month following attainment of age 65 or the five-year anniversary of the effective date of the disability benefit, whichever is later.

Sec. 15. Minnesota Statutes 1992, section 352B.105, is amended to read:

352B.105 [TERMINATION OF DISABILITY BENEFITS.]

Disability benefits payable under section 352B.10 shall terminate at the end of the month the beneficiary becomes 55 years old. If the beneficiary is still disabled when the beneficiary becomes 55 years old, the beneficiary shall be deemed to be a retired member and, if the beneficiary had chosen an optional annuity under section 352B.10, subdivision 5, shall receive an annuity in accordance with the terms of the optional annuity previously chosen. If the beneficiary had not chosen an optional annuity under section 352B.10, subdivision 5, the beneficiary may choose to receive either a normal retirement annuity computed under section 352B.08, subdivision 2, or an optional annuity as provided in section 352B.08, subdivision 3. An optional annuity must be chosen ~~before the beneficiary becomes 55 years old~~ within 90 days of attaining age 65 or reaching the five-year anniversary of the effective date of the disability benefit, whichever is later. If an optional annuity is chosen, the optional annuity shall begin to accrue the first of the month following the month in which the beneficiary becomes ~~55 years old~~ attainment of age 65 or the five-year anniversary of the effective date of the disability benefit, whichever is later.

Sec. 16. Minnesota Statutes 1992, 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, or a member or former member receiving the disability benefit before attaining age 65 or reaching the five-year anniversary of the effective date of the disability benefit, whichever is later, provided by section 352B.10, subdivision 1, or a former member receiving a disability benefit as provided by section 352B.10, subdivision 2, subdivisions 1 and 2, dies from any cause before attaining age 65 or reaching the five-year anniversary of the effective date of the disability benefit, whichever is later, the surviving spouse and dependent children are entitled to benefit payments as follows:

(a) A member with at least three 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 three years of service shall receive, for life, a monthly annuity equal to 50 percent of that part of the average monthly salary of the member from which deductions were made for retirement.

(c) The surviving spouse of a member who had credit for at least three years service and who died after becoming 55 years old, 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 three years or more and who was not 55 years old at death, shall receive the benefit equal to 50 percent of the average monthly salary as described in clause (b) until the deceased member would have become 55 years old, and beginning the first of the month following that date, may elect to receive the 100 percent joint and survivor annuity.

(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 23 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 for any one family must not be less than 50 nor exceed 70 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 three or more years of allowable service, but not the spouse of a former member receiving a disability benefit under section 352B.10, subdivision 2, is entitled to receive the 100 percent joint and survivor annuity at the time the deceased member would have become 55 years old. 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 six percent per year compounded annually.

Sec. 17. Minnesota Statutes 1992, section 352D.05, subdivision 4, is amended to read:

Subd. 4. A participant in the unclassified program may repay regular refunds taken pursuant to section 352.22, as provided in section 352.23. A participant in the unclassified program or an employee covered by the general plan who has withdrawn the value of the total shares may repay the refund taken and thereupon restore the service credit, rights and benefits forfeited by paying into the fund the greater of (1) the amount refunded plus interest at an annual rate of 8.5 percent compounded annually from the date that the refund was taken until the date that the refund is repaid, or (2) an amount equal to the total of the employee and employer matching and additional contributions for the forfeited employment period less the administrative fee provided in section 352D.09, subdivision 7, plus interest at an annual rate of 8.5 percent compounded annually from the date of the start of the forfeited employment period until the date that the refund is paid. If the participant had withdrawn only the employee shares as permitted under prior laws, repayment shall be pro rata. Payment shall be made in a lump sum.

Sec. 18. Minnesota Statutes 1992, section 356.302, subdivision 6, is amended to read:

Subd. 6. [COMBINED SERVICE DISABILITY BENEFIT COMPUTATION.] (a) The combined service disability benefit from each covered retirement plan must be based on the allowable service in each retirement plan, except as specified in paragraphs (b) to (f).

(b) The disability benefit must be governed by the law in effect for each covered retirement plan on the date of the commencement of the member's most recent qualifying disability as a member of a covered retirement plan.

(c) All plans must base the disability benefit on the same average salary to the extent practicable.

(d) If the method of the covered retirement plan used to compute a disability benefit varies based on the length of allowable service credit, the benefit accrual formula percentages used by the plan must recognize the allowable service credit in the plan as a continuation of any previous allowable service credit with other covered retirement plans.

(e) If the covered retirement plan is a defined benefit or formula plan and the method used to compute a disability benefit does not vary based on the length of allowable service credit, the portion of the specified benefit amount from the plan must bear the same proportion to the total specified benefit amount as the allowable service credit in that plan bears to the total allowable service credit in all covered retirement plans. If the covered retirement plan is a defined contribution or nonformula plan, the disability benefit amount for allowable service under the plan is not affected, but the service and covered salary under the plan must be used in calculations by other covered retirement plans.

(f) A period for which a person has allowable service credit in more than one covered retirement plan must be used only once in determining the total allowable service credit for calculating the combined service disability benefit, with any period of duplicated service credit handled under section 356.30, subdivision 1, clause (3), items (i) and (j).

(g) If a person is entitled to a minimum benefit payable from one of the public pension plans named in section 356.30, subdivision 3, the person may receive additional credit for only those years of service in another covered pension plan that, when added to the years of service in the pension plan that is paying the minimum benefit, exceed the years of service on which the minimum benefit is based.

(h) A partially employed recipient of a disability benefit must have any current income plus disability payment from all plans listed in subdivision 7 added together, and then compared to their final salary rate as a public employee. If current income plus disability payments exceed the final salary, then disability benefit payments from all the plans will be reduced on a prorated basis relative to the years of service in each fund so that earnings plus benefit payments do not exceed their final salary rate.

Sec. 19. [RETROACTIVE BENEFIT ACCRUAL TO COMPLY WITH AGE DISCRIMINATION LAWS.]

A retired member of the state patrol retirement plan who retired after December 31, 1987, and whose annuity was calculated using less than full years and months of service earned after reaching age 60 shall have monthly benefits recomputed using all years and months of service and including any postretirement adjustments that would have been payable. The difference between the original calculation and recomputed amount must be paid retroactively to September 1, 1989, or the date the annuity began to accrue, whichever is later.

Sec. 20. [EFFECTIVE DATE.]

Sections 1 to 19 are effective the day following final enactment.

ARTICLE 3

MISCELLANEOUS MSRS PROVISIONS

Section 1. Minnesota Statutes 1992, section 352.01, is amended by adding a subdivision to read:

Subd. 13a. [REDUCED SALARY DURING PERIOD OF WORKERS' COMPENSATION.] An employee on leave of absence receiving temporary workers' compensation payments and a reduced salary or no salary from the employer who is entitled to allowable service credit for the period of absence, may make payment to the fund for the difference between salary received, if any, and the salary the employee would normally receive if not on leave of absence during the period. The employee shall pay an amount equal to the employee and employer contribution rate under section 352.04, subdivisions 2 and 3, on the differential salary amount for the period of the leave of absence.

The employing department, at its option, may pay the employer amount on behalf of its employees. Payment made under this subdivision must include interest at the rate of 8.5 percent per year, and must be completed within one year of the return from leave of absence.

Sec. 2. Minnesota Statutes 1992, section 352.03, subdivision 4a, is amended to read:

Subd. 4a. [ADDITIONAL DUTIES OF THE BOARD.] The board may consider, review, and make recommendations regarding the financial and other needs of retired employees and may disseminate appropriate retirement information to the retired employee. Notwithstanding laws to the contrary, the board, at its discretion, may supply the names and addresses of retirees who were employed by the University of Minnesota at the time of termination to the University of Minnesota and state agencies for retirees who were employed by the specific state agency at the time of termination. The board, at its discretion, may supply names and addresses of state and university retirees to an organization that has been in existence for at least ten years and represents over 5,000 retired state and university employees. The names and addresses of each retiree can only be given to this organization once within 60 days of the effective date of the annuity. The board shall require the retiree organization, University of Minnesota, or applicable state agency to reimburse the fund for any administrative expense of providing the list. The list remains the property of the Minnesota state retirement system and may not be subsequently sold, conveyed, given, or otherwise transferred by the retiree organization, the University of Minnesota, or the state agency to a third party. Periodically, retirees must be given an opportunity to specify that their name and address not be distributed under this section.

Sec. 3. Minnesota Statutes 1992, section 352.15, is amended by adding a subdivision to read:

Subd. 3. [DEDUCTING HEALTH INSURANCE PREMIUMS.] The board may direct, at its discretion, the deduction of a retirees' health insurance premiums and transfer of the amounts to a health insurance carrier covering state employees. The insurance carrier must certify that the retired employee has signed an authorization for the deduction and provide a computer readable roster of covered retirees and amounts. The health insurance carrier must refund deductions withheld from a retirees' check in error directly to the retiree. The board shall require the insurance carrier to reimburse the fund for the administrative expense of withholding the premium amounts. The insurance carrier shall assume liability for any failure of the system to properly withhold the premium amounts.

Sec. 4. Minnesota Statutes 1992, section 352.15, is amended by adding a subdivision to read:

Subd. 4. [DIRECT TRANSFER OF REFUNDS.] Direct transfer of account refunds may be made to individual retirement savings accounts or qualified retirement plans upon application for transfer by a former employee, on forms acceptable to the executive director.

Sec. 5. Minnesota Statutes 1992, section 352B.01, subdivision 11, is amended to read:

Subd. 11. [AVERAGE SALARY.] "Average monthly salary" means the average of the highest monthly salaries for five years of service as a member. Average monthly salary must be based upon all allowable service if this service is less than five years. It does not include any amounts of severance pay or any reduced salary paid during the period the person is entitled to workers' compensation benefit payments for temporary disability. A member on leave of absence receiving temporary workers' compensation payments and a reduced salary or no salary from the employer who is entitled to allowable service credit for the period of absence may make payment to the fund for the difference between salary received, if any, and the salary the member would normally receive if not on leave of absence during the period. The member shall pay an amount equal to the member and employer contribution rate under section 352B.02, subdivisions 1b and 1c, on the differential salary amount for the period of the leave of absence. The employing department, at its option, may pay the employer amount on behalf of the member. Payment made under this subdivision must include interest at the rate of 8.5 percent per year, and must be completed within one year of the return from the leave of absence.

Sec. 6. Minnesota Statutes 1992, section 352D.02, subdivision 3, is amended to read:

Subd. 3. An election to not participate is irrevocable during any period of covered employment. An employee credited with employee shares in the unclassified program, after acquiring credit for ten years of allowable service but prior to termination of covered employment, may, notwithstanding other provisions of this subdivision, elect to terminate participation in the unclassified plan and be covered by the regular plan by filing such election with the executive director. The executive director shall thereupon redeem the employee's total shares and shall credit to the employee's account in the regular plan the amount of contributions that would have been so credited had the

employee been covered by the regular plan during the employee's entire covered employment. The balance of money so redeemed and not credited to the employee's account shall be transferred to the state contribution reserve of the state employees retirement fund, ~~except that the employee contribution paid to the unclassified plan in excess of that required by the general employee plan shall be refunded to the employee as provided in section 352.22, except that~~ (1) the employee contribution paid to the unclassified plan must be compared to (2) the employee contributions that would have been paid to the general plan for the comparable period, if the individual had been covered by that plan. If clause (1) is greater than clause (2), the difference must be refunded to the employee as provided in section 352.22. If clause (2) is greater than clause (1), the difference must be paid by the employee within six months of electing general plan coverage or before the effective date of the annuity, whichever is sooner.

Sec. 7. Minnesota Statutes 1992, section 352D.02, is amended by adding a subdivision to read:

Subd. 6. The provisions of section 352.04, subdivision 8, apply to this section.

Sec. 8. [EFFECTIVE DATE.]

Sections 1 to 7 are effective on the day following final enactment.

ARTICLE 4

PUBLIC EMPLOYEES RETIREMENT ASSOCIATION ADMINISTRATIVE LAW CHANGES

Section 1. Minnesota Statutes 1992, section 353.01, subdivision 2, is amended to read:

Subd. 2. [PUBLIC EMPLOYEE.] "Public employee" means ~~any person an~~ employee performing personal services for a governmental subdivision under subdivision 6, whose salary is paid, in whole or in part, from revenue derived from taxation, fees, assessments, or from other sources. The term also includes special classes of persons listed in subdivision 2a, but excludes special classes of persons listed in subdivision 2b for purposes of membership in the association. Public employee does not include independent contractors and their employees.

Sec. 2. Minnesota Statutes 1992, section 353.01, subdivision 2a, is amended to read:

Subd. 2a. [INCLUDED EMPLOYEES.] ~~The following persons are included in the meaning of "public employee": Public employees whose salary from one governmental subdivision exceeds \$425 in any month shall participate as members of the association. If the salary of an employee is less than \$425 in a subsequent month, the employee retains membership eligibility. The following persons are considered public employees:~~

(1) employees whose annual salary from one governmental subdivision exceeds a stipulation prepared 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 expected to be of less than a full year's duration. If compensation from one governmental subdivision to an employee under this clause 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 under section 353.27, subdivision 12, from the month in which the employee's salary first exceeded \$425;

(2) employees whose total salary from concurrent nontemporary positions in one governmental subdivision exceeds \$425 in any month;

(3) elected or appointed officers and for service to which they were elected by the public-at-large, or persons appointed to fill a vacancy in an elective office, who elect to participate by filing an application for membership, but not for service on a joint or regional board that is a governmental subdivision under subdivision 6, paragraph (a), unless the salary earned for that service exceeds \$425 in any month. The option to become a member, once exercised, may not be withdrawn during the incumbency of the person in office;

(4) members who are appointed by the governor to be a state department head and elect not to be covered by the Minnesota state retirement system under section 352.021;

(5) employees of elected officers;

- (2) ~~(6)~~ persons who elect to remain members under section 480.181, subdivision 2;
- ~~(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;~~
- (7) employees of a school district who receive separate salaries for driving their own buses;
- ~~(8) employees of the association of Minnesota counties;~~
- ~~(9) employees of the metropolitan intercounty association;~~
- ~~(10) employees of the Minnesota municipal utilities association;~~
- (11) ~~(8)~~ 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;~~
- ~~(13) employees of the Minneapolis employees retirement fund if employment initially commenced after June 30, 1979;~~
- ~~(14) employees of the range association of municipalities and schools;~~
- ~~(15) employees of the soil and water conservation districts;~~
- ~~(16) (9)~~ employees of a county historical society who are county employees;
- (17) ~~(10)~~ 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; and
- ~~(18) employees of an economic development authority created or operating under sections 469.090 to 469.108;~~
- ~~(19) employees of the department of military affairs of the state of Minnesota who are full time firefighters; and~~
- (20) (11) employees who became members before July 1, 1988, based on the total salary of positions held in more than one governmental subdivision.

Sec. 3. Minnesota Statutes 1992, section 353.01, subdivision 2b, is amended to read:

Subd. 2b. [EXCLUDED EMPLOYEES.] The following ~~persons are excluded from the meaning of "public employee"~~ public employees shall not participate as members of the association:

- ~~(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~~ elect public officers, or persons appointed to fill a vacancy in an elective office, who do not elect to participate in the association by filing an application for membership;
- (2) election officers;
- (3) ~~independent contractors and their employees;~~

(4) patient and inmate personnel who perform services in charitable, penal, or correctional institutions of a governmental subdivision;

~~(5) members of boards and commissions who serve a governmental subdivision intermittently unless their position on the board or commission is the result of public employment within the same governmental unit;~~

~~(6) (4) employees who are hired for a period of less than six consecutive months temporary position under subdivision 12a, and employees who resign from a nontemporary position and accept a temporary position within 30 days in the same governmental subdivision, but not those employees who are hired for an unlimited period but are serving a probationary period. If the period of employment is extended extends beyond the six month period six consecutive months and the employee 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 under section 353.27, subdivision 4.~~

Membership eligibility of an employee who resigns or is dismissed from a temporary position and within 30 days accepts another temporary position in the same governmental subdivision is determined on the total length of employment rather than on each separate position. Membership eligibility of an employee who holds concurrent temporary employment of six months or less and nontemporary positions in one governmental subdivision ~~must be is determined by the length of employment and salary of each separate 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) (5) employees whose actual compensation salary from one governmental subdivision does not exceed \$425 per month, or whose annual compensation salary from one governmental subdivision is stipulated does not exceed a stipulation prepared in advance, in writing, to be not more than that the salary must not exceed \$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 as defined in subdivision 11a. 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 (6) employees who are employed by reason of work emergency caused by fire, flood, storm, or similar disaster;~~

~~(10) (7) employees who by virtue of their employment 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 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 retirement association, or any police or firefighters relief association that has consolidated with the public employees retirement association but whose members have not elected the type of benefit coverage provided by the public employees police and fire fund under 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 becomes 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) (8) 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, if no irrevocable election of coverage has been made under section 3121(r) of the Internal Revenue Code of 1954, as amended;

(13) (9) full-time students who are enrolled and are regularly attending classes at an accredited school, college, or university and who are part-time employees as defined by a governmental subdivision;

(14) (10) resident physicians, medical interns, and pharmacist residents and pharmacist interns who are serving in a degree or residency program in public hospitals and;

(11) 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) (12) persons who hold a part-time adult supplementary technical college license who render part-time teaching service in a technical college;

~~(17) persons exempt from licensure under section 125.031;~~

~~(18) persons employed by the Minneapolis community development agency;~~

(13) foreign citizens working for a governmental subdivision with a work permit of less than three years, or an H-1b visa valid for less than three years of employment. Upon notice to the association that the work permit or visa extends beyond the three-year period, the foreign citizens are eligible for membership from the date of the extension;

(14) public hospital employees who elected not to participate as members of the association before 1972 and who did not elect to participate from July 1, 1988 to October 1, 1988;

(19) (15) 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

(20) (16) 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.

Sec. 4. Minnesota Statutes 1992, section 353.01, subdivision 6, is amended to read:

Subd. 6. [GOVERNMENTAL SUBDIVISION.] (a) "Governmental subdivision" means a county, city, town, school district within this state, or a department or unit of state government, or any public body whose revenues are derived from taxation, fees, assessments or from other sources; ~~but~~

(b) Governmental subdivision also means the public employees retirement association, the league of Minnesota cities, the association of metropolitan municipalities, public hospitals owned or operated by, or an integral part of, a governmental subdivision or governmental subdivisions, the association of Minnesota counties, the metropolitan intercounty association, the Minnesota municipal utilities association, the metropolitan airports commission, and the Minneapolis employees retirement fund for employment initially commenced after June 30, 1979, the range association of municipalities and schools, soil and water conservation districts, and economic development authorities created or operating under sections 469.090 to 469.108.

(c) Governmental subdivision does not mean any municipal housing and redevelopment authority organized under the provisions of sections 469.001 to 469.047; or any port authority organized under sections 469.048 to 469.068; or any hospital district organized or reorganized prior to July 1, 1975, under sections 447.31 to 447.37 or the successor of the district, nor the Minneapolis community development agency.

Sec. 5. Minnesota Statutes 1992, section 353.01, subdivision 7, is amended to read:

Subd. 7. [MEMBER.] "Member" means a person who accepts employment as a "public employee" under subdivision 2, is an employee under subdivision 2a, and is not covered by the plan established in chapter 353D. A person who is a member remains a member while performing services as a public employee and while on an authorized leave of absence or an authorized temporary layoff; ~~provided, however, (1) that any elected public officer or any person appointed to fill a vacancy in an elective office shall have the right to exercise an option to become a member by filing application for membership, but the option to become a member, once exercised, may not be withdrawn during the incumbency of the person in office; and (2) that any member who is appointed by the governor to be a state department head and elects pursuant to section 352.021, subdivision 3, not to be covered by the Minnesota state retirement system, shall remain a member of the public employees retirement association. Membership in the retirement association of any person shall terminate upon the person ceasing to be a "public employee."~~

Sec. 6. Minnesota Statutes 1992, section 353.01, is amended by adding a subdivision to read:

Subd. 7a. [FORMER MEMBER.] "Former member" means a member of the association who terminates public service under subdivision 11a or membership under subdivision 11b.

Sec. 7. Minnesota Statutes 1992, section 353.01, subdivision 10, is amended to read:

Subd. 10. [SALARY.] (a) "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.

~~(b) Salary does not mean fees paid to district court reporters are not salary, unused annual or sick leave payments, in lump-sum or periodic payments, are not salary, severance payments, reimbursement of expenses, lump-sum settlements not attached to a specific earnings period, or workers' compensation payments, and all. Salary does not mean employer-paid flexible spending accounts, cafeteria plans, health care expense accounts, day care expenses, or any 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 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 salary, and, after all sick leave has been used, the payment is not salary.~~

~~(b) (c)~~ 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 salary.

~~(e) (d)~~ For a public employee who has prior service covered by a local police or firefighters relief association that has consolidated with the public employees retirement association and who has elected coverage under the public employees police and fire fund benefit plan under 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. 8. Minnesota Statutes 1992, section 353.01, subdivision 11a, is amended to read:

Subd. 11a. [TERMINATION OF PUBLIC SERVICE.] "Termination of public service" occurs when ~~an officer or~~ employee terminates employment or is on temporary layoff as defined in subdivision 12 a member resigns or is dismissed from public service by the employing governmental subdivision, as evidenced by appropriate written record transmitted to the association, and does not within 30 days of termination or expiration of the temporary layoff resignation or dismissal return to a nontemporary employment position in the same governmental subdivision.

Sec. 9. Minnesota Statutes 1992, section 353.01, is amended by adding a subdivision to read:

Subd. 11b. [TERMINATION OF MEMBERSHIP.] "Termination of membership" occurs:

(1) upon termination of public service under subdivision 11a;

(2) when a member who is a part-time employee is excluded from membership as a full-time student under subdivision 2b, clause (9);

(3) when a member does not return to work within 30 days of the expiration of an authorized temporary layoff under subdivision 12 or an authorized leave of absence under subdivision 31. If the employee subsequently returns to a position in the same governmental subdivision, the employee shall not again be required to earn a salary in excess of \$425 per month, unless the employee has taken a refund of accumulated employee deductions plus interest under section 353.34, subdivision 1; or

(4) when a person files a written election to discontinue employee deductions under section 353.27, subdivision 7, paragraph (a), clause (1).

Sec. 10. Minnesota Statutes 1992, section 353.01, subdivision 12, is amended to read:

Subd. 12. [AUTHORIZED TEMPORARY LAYOFF.] "Authorized temporary layoff," including seasonal leave of absence, means a suspension of public employment service authorized by the employing governmental subdivision for a period not exceeding three months in any calendar year, by action of the employing governmental subdivision as evidenced by appropriate record of the employer and promptly transmitted to the association.

Sec. 11. Minnesota Statutes 1992, section 353.01, is amended by adding a subdivision to read:

Subd. 12a. [TEMPORARY POSITION.] "Temporary position" means an employment position of six months or less in which a person is a public employee under subdivision 2, but not an employment position for an unlimited period in which a person serves a probationary period.

Sec. 12. Minnesota Statutes 1992, section 353.01, subdivision 16, is amended to read:

Subd. 16. [ALLOWABLE SERVICE.] (a) "Allowable service" means service during years of actual membership in the course of which employee contributions were made, periods covered by payments in lieu of salary deductions under section 353.35, and service in years during which the public employee was not a member but for which the member later elected, while a member, to obtain credit by making payments to the fund as permitted by any law then in effect.

(b) "Allowable service" also means a period of authorized leave of absence with pay from which deductions for employee contributions are made, deposited, and credited to the fund.

(c) "Allowable service" also means a period of authorized leave of absence without pay that does not exceed one year, and during or for which a member obtained credit by payments to the fund made in place of salary deductions, provided that the payments are made in an amount or amounts based on the member's average salary on which deductions were paid for the last six months of public service, or for that portion of the last six months while the member was in public service, to apply to the period in either case immediately preceding commencement of the leave of absence. If the employee elects to pay employee contributions for the period of any leave of absence without pay, or for any portion of the leave, the employee shall also, as a condition to the exercise of the election, pay to the fund an amount equivalent to both the required employer and additional employer contributions for the employee. The payment must be made within one year from the date expiration of the leave of absence terminates or within 20 days after termination of public service under subdivision 11a. The employer by appropriate action of its governing body, made a part of its official records, before the date of the first payment of the employee contribution, may certify to the association in writing its commitment to pay the employer and additional employer contributions from the proceeds of a tax levy made under section 353.28. Payments under this paragraph must include interest at an annual rate of 8.5 percent compounded annually from the date of the termination of the leave of absence to the date payment is made. An employee shall return to public service for a minimum of 90 calendar days to be eligible to pay employee and employer contributions for a subsequent authorized leave of absence without pay.

(d) "Allowable service" also means a periodic, repetitive leave that is offered to all employees of a governmental subdivision. The leave program may not exceed 208 hours per annual normal work cycle as certified to the association by the employer. A participating member obtains service credit by making employee contributions in an amount or amounts based on the member's average salary that would have been paid if the leave had not been taken. The employer shall pay the employer and additional employer contributions on behalf of the participating member. The employee and the employer are responsible to pay interest on their respective shares at the rate of six percent a year, compounded annually, from the ~~date or dates that the contributions were first payable~~ end of the normal cycle until full payment is made. An employer shall also make the employer and additional employer contributions, plus six percent interest, compounded annually, on behalf of an employee who makes employee contributions but terminates public service. The employee contributions must be made within one year after the end of the annual normal working cycle or within 20 days after termination of public service, whichever is ~~applicable~~ sooner. The association shall prescribe the manner and forms to be used by a governmental subdivision in administering a periodic, repetitive leave.

(e) "Allowable service" also means a period during which a member is on an authorized sick leave of absence, without pay, limited to one year. An employee who has received one year of allowable service shall return to public service for a minimum of 90 calendar days to receive allowable service for a subsequent authorized sick leave of absence.

(f) "Allowable service" also means an authorized temporary layoff under subdivision 12. The association shall grant a maximum of three months allowable service per authorized temporary layoff in one calendar year. An employee shall return to public service for a minimum of 90 calendar days to receive allowable service for a subsequent authorized temporary layoff.

(g) "Allowable service" also means a ~~maternity, paternity, or adoption parental~~ leave. The association shall grant a maximum of two months service credit for a ~~maternity, paternity, or adoption parental~~ leave, within six months after the birth or adoption, upon documentation from the member's governmental subdivision. ~~A member on personal leave of absence who provides the association with or presentation of a birth certificate or other evidence of birth or adoption during the personal leave time period also receives up to two months of service credit to the association.~~

(h) "Allowable service" also means a period during which a member is on an authorized leave of absence to enter military service, provided that the member returns to public service upon discharge from military service under section 192.262 and pays into the fund employee contributions based upon the employee's salary at the date of return from military service. Payment must be made within five years of the date of discharge from the military service. The amount of these contributions must be in accord with the contribution rates and salary limitations, if any, in effect during the leave, plus interest at an annual rate of 8.5 percent compounded annually from the date of return to public service to the date payment is made. The matching employer contribution and additional employer contribution under section 353.27, subdivisions 3 and 3a, must be paid by the ~~department~~ governmental subdivision employing the member upon return to public service if the member makes the employee contributions. The governmental subdivision involved may appropriate money for those payments. A member may not receive credit for a voluntary extension of military service at the instance of the member beyond the initial period of enlistment, induction, or call to active duty.

(i) For calculating benefits under sections 353.30, 353.31, 353.32, and 353.33 for state officers and employees displaced by the community corrections act, chapter 401, and transferred into county service under section 401.04, "allowable service" means combined years of allowable service as defined in paragraphs (a) to (h) and section 352.01, subdivision 11.

(j) For a public employee who has prior service covered by a local police or firefighters relief association that has consolidated with the public employees retirement association, and who has elected the type of benefit coverage provided by the public employees police and fire fund under section 353A.08 following the consolidation, "applicable service" is a period of service credited by the local police or firefighters relief association as of the effective date of the consolidation based on law and on bylaw provisions governing the relief association on the date of the initiation of the consolidation procedure.

Sec. 13. Minnesota Statutes 1992, section 353.01, subdivision 28, is amended to read:

Subd. 28. [RETIREMENT.] (a) "Retirement" means the ~~withdrawal from active public service by a member who is paid a retirement annuity that begins to accrue~~ commencement of payment of an annuity based on a date designated by the board of trustees. This date determines the rights specified in under this chapter which occur either before or after retirement. A right to retirement must not accrue without a complete and continuous separation from public service for 30 days following the withdrawal from public service for the purpose of retirement is subject to termination of public service under subdivision 11a and termination of membership under subdivision 11b.

(b) Notwithstanding the 30-day separation requirement, a member of the defined benefit plan under this chapter, who also participates in the public employees defined contribution plan under chapter 353D for other public service, may be paid, if eligible, a retirement annuity from the defined benefit plan while participating in the defined contribution plan.

Sec. 14. Minnesota Statutes 1992, section 353.01, subdivision 31, is amended to read:

Subd. 31. [AUTHORIZED LEAVE OF ABSENCE.] "Authorized leave of absence" means any period during which a member is ~~duly~~ authorized by an employer to refrain from active employment, with or without pay, evidenced by appropriate record of the employer and promptly transmitted to the association.

Sec. 15. Minnesota Statutes 1992, section 353.01, subdivision 32, is amended to read:

Subd. 32. [COORDINATED MEMBER.] "Coordinated member" means any public employee, including any public hospital employee, covered by any agreement or modification made between the state and the Secretary of Health, Education and Welfare, making the provisions of the federal old age, survivors and disability insurance act applicable to ~~such the member if membership eligibility criteria are met under this chapter.~~ Coordinated member also means a basic member who terminates public service under subdivision 11a, reenters public service in a nontemporary position, and meets the membership eligibility criteria under this chapter.

Sec. 16. Minnesota Statutes 1992, section 353.017, is amended to read:

353.017 [EMPLOYEES OF LABOR ORGANIZATIONS.]

Subdivision 1. [QUALIFICATIONS.] A former member of the association, or a current coordinated member on an authorized leave of absence, who is an employee of a labor organization that represents public employees who are association members may elect ~~pursuant to,~~ under subdivision 2, to be a coordinated member with respect to service with ~~such the~~ labor organization unless specifically exempt under section 353.01, subdivision 2b.

Subd. 2. [ELECTION.] A person described in subdivision 1 ~~will be is~~ covered by the association if written election to be covered is delivered to the ~~board~~ association within ~~30 days~~ six months of ~~being employed~~ employment by ~~such the~~ labor organization or within six months after July 1, 1993, whichever is applicable.

Subd. 3. [CONTRIBUTIONS.] The employee, employer and additional employer contributions shall be the obligation of the employee who elects coverage herein in accord with this chapter; provided, however, the employer, labor organization, may pay the employer and additional employer contributions. The employer shall, in any event, deduct the necessary contributions from the employee's salary and remit all contributions to the public employees retirement association pursuant to section 353.27, subdivisions 4, 7, 10, 11, and 12.

Subd. 5. [BOARD MEMBERSHIP EXCLUDED.] Persons who become association members pursuant to this section shall not be eligible for election to the board of trustees.

Sec. 17. Minnesota Statutes 1992, section 353.27, subdivision 7, is amended to read:

Subd. 7. [ADJUSTMENT FOR ERRONEOUS RECEIPTS OR DISBURSEMENTS.] (a) [DEDUCTIONS TAKEN IN ERROR.] ~~Deductions taken in error by the employer from the salary of an employee for the retirement fund and transmitted to the association must be refunded to the employee under section 353.34, subdivision 2. The employer contribution and the additional employer contribution, if any, for the erroneous employee contribution must be refunded to the employer, provided that the refund of deductions taken in error has been made within three calendar years of the calendar year in which the initial deduction taken in error was received by the association. A refund of deductions taken in error from sick leave, vacation, workers' compensation, and severance pay may be made at any time. If the refund of deductions taken in error has not been made within three calendar years of the calendar year in which the initial deduction taken in error was received by the association, the erroneous contributions are considered valid, and the years of allowable service attributable to the deductions taken in error must be credited to the member under section 353.01, subdivision 16. Notwithstanding a law to the contrary, the employee may continue to be a member until termination of public service. Erroneous employee deductions and erroneous employer contributions and additional employer contributions for a person, who otherwise does not qualify for membership under this chapter, are considered:~~

(1) valid if the initial erroneous deduction began before January 1, 1990. Upon determination of the error by the association, the person may:

(i) continue membership in the association while employed in the same position for which erroneous deductions were taken; or

(ii) file a written election to terminate membership and apply for a refund or defer an annuity under section 353.34;

(2) invalid, if the initial erroneous employee deduction began on or after January 1, 1990. Upon determination of the error, the association shall require the employer to discontinue erroneous employee deductions and erroneous employer contributions and additional employer contributions. Upon discontinuance, the association shall refund all erroneous employee deductions to the person, with interest, under section 353.34, subdivision 2, and all erroneous employer contributions and additional employer contributions to the employer. No person may claim a right to continued or past membership in the association based on erroneous deductions which began on or after January 1, 1990;

(3) a refund of deductions taken in error from sick leave, vacation, workers' compensation, and severance pay may be made at any time.

(b) [ERRONEOUS DISBURSEMENT.] In the event 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 returned to the funds of the department making the payment, a refund of the sum deducted, or a portion of it that is required to adjust the deductions, must be made to the department or institution.

Sec. 18. Minnesota Statutes 1992, section 353.29, subdivision 1, is amended to read:

Subdivision 1. [AGE AND ALLOWABLE SERVICE REQUIREMENTS.] ~~Upon separation from public service, any termination of membership, a person who has attained normal retirement age and who received credit for not less than three years of allowable service is entitled upon application to a retirement annuity. Such~~ The retirement annuity is known as the "normal" retirement annuity.

Sec. 19. Minnesota Statutes 1992, section 353.33, subdivision 1, is amended to read:

Subdivision 1. [AGE, SERVICE, AND SALARY REQUIREMENTS.] A coordinated member who has at least three years of allowable service and becomes totally and permanently disabled before normal retirement age, and after a basic member who has at least three years of allowable service and who becomes totally and permanently disabled is entitled to a disability benefit in an amount under subdivision 3. If the disabled person's public service has terminated at any time, at least two of the required three years of allowable service must have been rendered after last becoming a member. A repayment of a refund may must be made within six months after the effective date of disability benefits under subdivision 2 or within six months after the date of the filing of the disability application, whichever is sooner later. No purchase of prior service or payment made in lieu of salary deductions otherwise authorized under 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 under this section is filed.

Sec. 20. Minnesota Statutes 1992, 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 must be initiated by written application in the manner and form prescribed by the executive director 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 shall~~ file application for total and permanent disability benefits within three years next following termination of public service, ~~but not thereafter.~~ This benefit ~~shall begin~~ begins 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 must not~~ 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~~ is 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. 21. Minnesota Statutes 1992, section 353.33, subdivision 3, is amended to read:

Subd. 3. [COMPUTATION OF BENEFITS.] This disability benefit is an amount equal to the normal annuity payable to a member who has reached normal retirement age with the same number of years of allowable service and the same average salary, as provided in section 353.29, subdivisions 2 and 3.

A "basic member" shall receive in addition a supplementary monthly benefit computed in accordance with the following table: of \$25 to age 65 or the five-year anniversary of the effective date of the disability benefit, whichever is later.

Age when Disabled	Supplementary benefit
Under 56	\$50
56	45
57	40
58	35
59	30
60	25
61	20
62	15
63	10
64	5

If the disability benefits ~~provided in~~ under this subdivision exceed the average salary as defined in section 353.29, subdivision 2, the disability benefits ~~shall~~ must be reduced to an amount equal to said average salary.

Sec. 22. Minnesota Statutes 1992, section 353.33, subdivision 4, is amended to read:

Subd. 4. [PROCEDURE TO DETERMINE ELIGIBILITY.] The applicant shall provide and authorize release of medical evidence, including all medical records and relevant information from any source, to support the application for total and permanent disability benefits. The medical adviser shall verify the medical evidence and, if necessary for disability determination, suggest referral of applicant to specialized medical consultants. The association shall also obtain from the employer, certification of the member's past public service, dates of paid sick leave and vacation beyond the last working day and whether or not sick leave or annual leave has been allowed. If upon consideration of the medical ~~reports~~ evidence received and the recommendations of the medical adviser, it is determined that the applicant is totally and permanently disabled within the meaning of the law, the association shall grant the person a disability benefit. The fact that an employee is placed on leave of absence without compensation because of disability ~~shall does~~ not bar the person from receiving a disability benefit.

Sec. 23. Minnesota Statutes 1992, section 353.33, subdivision 6, is amended to read:

Subd. 6. [CONTINUING ELIGIBILITY FOR BENEFITS.] The association shall determine eligibility for continuation of disability benefits ~~shall be determined by the association, which has authority to and~~ require periodic examinations and evaluations of disabled members as frequently as deemed necessary. The association shall require the disabled member to provide and authorize release of medical evidence, including all medical records and information from any source, relating to an application for continuation of disability benefits. 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 must cease the first of the month following the reinstatement to the payroll.

Sec. 24. Minnesota Statutes 1992, section 353.33, subdivision 8, is amended to read:

Subd. 8. [REFUSAL OF EXAMINATION OR MEDICAL EVIDENCE.] ~~Should any such disabled If a person refuse applying for or receiving a disability benefit refuses to submit to a medical examination as herein provided, payments by the fund shall be discontinued, and all rights of the member in any disability benefit shall be revoked by the board.~~ under subdivision 6, or fails to provide or authorize the release of medical evidence under subdivisions 4 and 6, the association shall cease the application process or discontinue the payment of a disability benefit, whichever is applicable. Upon receipt of the requested medical evidence, the association shall resume the application process or the payment of a disability benefit upon approval for the continuation, whichever is applicable.

Sec. 25. Minnesota Statutes 1992, section 353.33, subdivision 11, is amended to read:

Subd. 11. [COORDINATED MEMBER RETIREMENT STATUS AT NORMAL RETIREMENT AGE.] No person shall be is entitled to receive disability benefits and a retirement annuity at the same time. The disability benefits paid to a ~~person hereunder shall~~ coordinated member must terminate when the person reaches normal retirement age. If the ~~person coordinated member~~ coordinated member is still totally and permanently disabled ~~when the person attains the~~ upon attaining normal retirement age, the ~~person shall be~~ coordinated member is deemed to be on retirement status ~~and,~~ and. If the ~~person had elected an optional annuity pursuant to is elected under subdivision 3a, the coordinated member shall receive an annuity in accordance with under the terms of the optional annuity previously elected, or, if the person~~

~~had not elected an optional annuity pursuant to~~ is not elected under subdivision 3a, the coordinated member may at the option of the person either elect to receive either a normal retirement annuity as provided in under section 353.29 or normal retirement an annuity equal to the disability benefit paid before the person reached coordinated member reaches normal retirement age, whichever amount is greater, or elect to receive an optional annuity as provided in under section 353.30, subdivision 3. Any The annuity of a disabled person coordinated member who attains normal retirement age shall have the annuity must be computed in accordance with under the law in effect upon attainment of that normal retirement age. Election of an optional annuity shall must be made prior to before the person attaining the coordinated member attains normal retirement age. If an optional annuity is elected, the election shall be is effective on the date on which the person attains normal retirement age and the optional annuity shall begin begins to accrue on the first day of the month next following the month in which the person attains that age.

Sec. 26. Minnesota Statutes 1992, section 353.33, is amended by adding a subdivision to read:

Subd. 12. [BASIC DISABILITY SURVIVOR BENEFITS.] If a basic member who is receiving a disability benefit under subdivision 3:

(a) dies before attaining age 65 or within five years of the effective date of the disability, whichever is later, the surviving spouse shall receive a survivor benefit under section 353.31, unless the surviving spouse elected to receive a refund under section 353.32, subdivision 1.

(b) is living at age 65 or five years after the effective date of the disability, whichever is later, the basic member may continue to receive a normal disability benefit, or elect a joint and survivor optional annuity under section 353.31, subdivision 1b. The election of the joint and survivor optional annuity must occur within 90 days of age 65 or the five-year anniversary of the effective date of the disability benefit, whichever is later. The optional annuity takes effect on the first of the month following the month in which the person attains age 65 or reaches the five-year anniversary of the effective date of the disability benefit, whichever is later.

(c) if there is a dependent child or children under paragraph (a) or (b), the association shall grant a dependent child benefit under section 353.31, subdivision 1b, paragraph (b).

Sec. 27. Minnesota Statutes 1992, section 353.34, subdivision 1, is amended to read:

Subdivision 1. [REFUND OR DEFERRED ANNUITY.] A former 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, is entitled to a refund of accumulated employee deductions under subdivision 2, or to a deferred annuity under 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 six percent interest compounded annually from the fund in which the member terminated service. Application for a refund may not be made prior to the date of termination of public service or the expiration of 120 days of layoff termination of membership, whichever is sooner. A refund must be paid within 120 days following receipt of the application unless the applicant has again become a public employee required to be covered by the association.

Sec. 28. Minnesota Statutes 1992, section 353.34, subdivision 3, is amended to read:

Subd. 3. [DEFERRED ANNUITY; ELIGIBILITY; COMPUTATION.] A member with at least three years of allowable service when termination of public service or termination of membership occurs has the option of leaving the accumulated deductions in the fund and being entitled to a deferred retirement annuity commencing at normal retirement age or to a deferred early retirement annuity under section 353.30, subdivision 1, 1a, 1b, 1c, or 5. The deferred annuity must be computed under section 353.29, subdivisions 2 and 3, on the basis of the law in effect on the date of termination of public service or termination of membership and must be augmented as provided in section 353.71, subdivision 2. A former member qualified to apply for a deferred retirement annuity may revoke this option at any time before the commencement of deferred annuity payments by making application for a refund. The person is entitled to a refund of accumulated member contributions within 30 days following date of receipt of the application by the executive director.

Sec. 29. Minnesota Statutes 1992, section 353.35, is amended to read:

353.35 [CONSEQUENCES OF REFUND; REPAYMENT, RIGHTS RESTORED.]

Subdivision 1. [REFUND RIGHTS.] 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 the refund must terminate and must not again. The rights and benefits of a former member must not be restored until the person returns to active service and acquires at least 18 six months of allowable service credit after taking the last refund and repays all refunds the refund or refunds taken and interest received under section 353.34, subdivisions 1 and 2, plus interest at an annual rate of 8.5 percent compounded annually. If the person elects to restore service credit in a particular fund from which the person has taken more than one refund, the person must repay all refunds to that fund. All refunds must be repaid within six months of the last date of termination of public service.

If more than one refund has been taken, 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 an annual rate of 8.5 percent compounded annually. All refunds must be repaid within six months of the last date of termination of public service.

Subd. 2. [REFUND REPAYMENT.] A person who receives a refund of accumulated employee deductions, plus interest, may repay the total amount of the refund including the interest, within 30 days of the date the refund was issued, to retain allowable service.

Sec. 30. Minnesota Statutes 1992, section 353.37, is amended to read:

353.37 [PUBLIC REEMPLOYMENT OF ANNUITANT.]

Subdivision 1. [EFFECT ON ANNUITY SALARY MAXIMUMS.] (a) The annuity of a person otherwise eligible for an annuity under this chapter must be suspended under subdivision 2 or reduced under subdivision 3, whichever results in the higher annual annuity amount, if the person reenters public service as a nonelective employee of a governmental subdivision in a position covered by this chapter, if earned compensation and salary for the reemployment service equals or exceeds 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 United States Code, title 42, section 403, in any calendar year. In the event that if the person has not yet reached the minimum age for the receipt of social security benefits, the maximum earnings salary for the person are is equal to the annual maximum earnings allowable for the minimum age for the receipt of social security benefits.

Subd. 2. [SUSPENSION OF ANNUITY.] The association shall suspend the annuity on the first of the month after the month in which the salary of the reemployed annuitant exceeds the maximums set in subdivision 1, based only on those months in which the annuitant is actually employed in nonelective service in a position covered under this chapter. An annuitant who is elected to public office after retirement may hold office and receive an annuity otherwise payable from the association.

(b) Subd. 3. [REDUCTION OF ANNUITY.] The association shall reduce the amount of the reduction is annuity as follows:

(1) (a) for a person who has not reached normal retirement age, one-half of the amount in excess of the applicable reemployment income maximum specified in this under subdivision 1;

(2) (b) for a person who has reached normal retirement age, but has not reached age 70, one-third of the amount in excess of the applicable reemployment income maximum specified in this under subdivision 1.

(c) for a person who has reached age 70, or for income salary earned through service in an elected office, there is no reduction upon reemployment, regardless of income. Any reduction must be made from the annuity payable for the calendar year immediately following the calendar year in which the excess amount was earned.

Subd. 4. [RESUMPTION OF ANNUITY.] The association shall resume paying a full annuity to the reemployed annuitant at the start of each calendar year until the salary exceeds the maximums under subdivision 1, or on the first of the month following termination of public service or termination of membership, whichever is sooner. The executive director may adopt policies regarding the suspension and reduction of annuities under this section.

(e) Subd. 5. [EFFECT ON ANNUITY.] Except as provided in ~~paragraphs (a) and (b)~~ under this section, public service performed by an annuitant subsequent to retirement under this chapter does not increase or decrease the amount of an annuity. The annuitant ~~may~~ shall not make any further contributions to the association's defined benefit plan by reason of this subsequent public service.

Sec. 31. Minnesota Statutes 1992, section 353.64, subdivision 1, is amended to read:

Subdivision 1. [POLICE AND FIRE FUND MEMBERSHIP.] ~~Any~~ (a) A 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~~ (b) A 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, and~~ shall continue membership in the fund whether or not that person has the power of arrest by warrant after that date.

~~Any~~ (c) A 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~~ become 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.

(d) 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~~ (e) An 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~~ (f) An employee serving on less than a full-time basis as a 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~~ (g) A police officer or 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 shall not ~~be~~ become a member of ~~this the~~ the public employees police and fire fund.

Sec. 32. Minnesota Statutes 1992, section 353.64, subdivision 5a, is amended to read:

Subd. 5a. A member of the police and fire fund continues to be a member of that fund if transferred to a different position with associated police or fire department functions in the same department or a related department in the same governmental subdivision provided the governing body sends a copy of a resolution to that effect to the association ~~and the member meets the eligibility criteria under subdivision 2 or 3~~. A police and fire fund member who is elected or assumes an appointive position, including but not limited to, the positions of city council member, city manager, and finance director is not eligible to retain membership in the public employees police and fire fund.

Sec. 33. Minnesota Statutes 1992, section 353.656, subdivision 1, is amended to read:

Subdivision 1. [IN LINE OF DUTY; COMPUTATION OF BENEFITS.] ~~Any~~ A member of the police and fire fund ~~less than 55 years of age~~, who becomes disabled and physically unfit to perform duties as a police officer or firefighter subsequent to June 30, 1973, as a direct result of an injury, sickness, or other disability incurred in or arising out of any act of duty, which has or is expected to render the member physically or mentally unable to perform duties as a police officer or firefighter for a period of at least one year, shall receive disability benefits during the period of such

disability. The benefits must be in an amount equal to 50 percent of the "average salary" pursuant to subdivision 3 plus an additional 2-1/2 percent of said average salary for each year of service in excess of 20 years. Should disability under this subdivision occur before the member has at least five years of allowable service credit in the police and fire fund, the disability benefit must be computed on the "average salary" from which deductions were made for contribution to the police and fire fund.

Sec. 34. Minnesota Statutes 1992, section 353.656, subdivision 1a, is amended to read:

Subd. 1a. [OPTIONAL ANNUITY ELECTION.] A disabled member of the police and fire fund may elect to receive the normal disability benefit or an optional annuity as provided in section 353.30, subdivision 3. The election of an optional annuity ~~shall~~ may be made prior to commencement of payment of the disability benefit or as specified under subdivision 6a. The optional annuity shall begin to accrue on the same date as provided for the disability benefit.

(1) If the person who is not the spouse of the member is named as beneficiary of the joint and survivor optional annuity, the person is eligible to receive the annuity only if the spouse, on the disability application form prescribed by the executive director, permanently waives the surviving spouse benefits under section 353.657, subdivisions 2 and 2a. If the spouse of the member refuses to permanently waive the surviving spouse coverage, the selection of a person other than the spouse of the member as a joint annuitant is invalid.

(2) If the spouse of the member permanently waives survivor coverage, the dependent child or children, if any, continue to be eligible for survivor benefits, including the minimum benefit under section 353.657, subdivision 3. The designated optional annuity beneficiary may draw the monthly benefit; however, the amount payable to the dependent child or children and joint annuitant must not exceed the 70 percent maximum family benefit under section 353.657, subdivision 3. If the maximum is exceeded, the benefit of the joint annuitant must be reduced to the amount necessary so that the total family benefit does not exceed the 70 percent maximum family benefit amount.

(3) If the spouse is named as the beneficiary of the joint and survivor optional annuity, the spouse may draw the monthly benefit; however, the amount payable to the dependent child or children and the joint annuitant must not exceed the 70 percent maximum family benefit under section 353.657, subdivision 3. If the maximum is exceeded, each dependent child will receive ten percent of the member's specified average monthly salary, and the benefit to the joint annuitant must be reduced to the amount necessary so that the total family benefit does not exceed the 70 percent maximum family benefit amount. The joint and survivor optional annuity must be restored to the surviving spouse, plus applicable postretirement adjustments under section 356.41, as the dependent child or children become no longer dependent under section 353.01, subdivision 15.

Sec. 35. Minnesota Statutes 1992, section 353.656, subdivision 3, is amended to read:

Subd. 3. [NONDUTY DISABILITY BENEFIT.] Any member who becomes disabled after not less than one year of allowable service, ~~before reaching the age of 55~~, because of sickness or injury occurring while not on duty as a police officer or firefighter, and by reason of that sickness or injury the member has been or is expected to be unable to perform duties as a police officer or firefighter for a period of at least one year, is entitled to receive a disability benefit. The benefit must be ~~in the same amount and~~ paid in the same manner as if the member were ~~55 years of age at the date of disability and the benefit were paid under section 353.651~~. If a disability under this subdivision occurs after one but in less than 15 years of allowable service, the disability benefit must be the same as though the member had at least 15 years service. For a member who is employed as a full-time firefighter by the department of military affairs of the state of Minnesota, allowable service as a full-time state military affairs department firefighter credited by the Minnesota state retirement system may be used in meeting the minimum allowable service requirement of this subdivision.

Sec. 36. Minnesota Statutes 1992, section 353.656, subdivision 5, is amended to read:

Subd. 5. [PROOF OF DISABILITY.] ~~No~~ A disability benefit payment ~~shall~~ must not be made except upon adequate proof furnished to the association of the existence of such disability, and during the time when ~~any such~~ disability benefits are being paid, the association ~~shall have~~ has the right, at reasonable times, to require the disabled member to submit proof of the continuance of the disability claimed. ~~Payment of a disability benefit must cease the first of the month following reinstatement to a position covered by the public employees police and fire fund. A person applying for or receiving a disability benefit shall provide or authorize release of medical evidence, including all medical records and information from any source, relating to an application for disability benefits.~~

Sec. 37. Minnesota Statutes 1992, section 353.656, is amended by adding a subdivision to read:

Subd. 5a. [CESSATION OF DISABILITY BENEFIT.] The association shall cease the payment of an in-line-of-duty or nonduty disability benefit the first of the month following the reinstatement of a member to full time or less than full-time service in a position covered by the police and fire fund.

Sec. 38. Minnesota Statutes 1992, section 353.656, is amended by adding a subdivision to read:

Subd. 6a. [DISABILITY SURVIVOR BENEFITS.] If a member who is receiving a disability benefit under subdivision 1 or 3:

(a) dies before attaining age 65 or within five years of the effective date of the disability, whichever is later, the surviving spouse shall receive a survivor benefit under section 353.657, subdivision 2 or 2a, unless the surviving spouse elected to receive a refund under section 353.32, subdivision 1. The joint and survivor optional annuity under subdivision 2a is based on the minimum disability benefit under subdivision 1 or 3, or the deceased member's allowable service, whichever is greater.

(b) is living at age 65 or five years after the effective date of the disability, whichever is later, the member may continue to receive a normal disability benefit, or the member may elect a joint and survivor optional annuity under section 353.30. The optional annuity is based on the minimum disability benefit under subdivision 1 or 3, or the member's allowable service, whichever is greater. The election of this joint and survivor annuity must occur within 90 days of age 65 or the five-year anniversary of the effective date of the disability benefit, whichever is later. The optional annuity takes effect the first of the month following the month in which the person attains age 65 or reaches the five-year anniversary of the effective date of the disability benefit, whichever is later.

(c) if there is a dependent child or children under paragraph (a) or (b), the association shall grant a dependent child benefit under section 353.657, subdivision 3.

Sec. 39. Minnesota Statutes 1992, section 353A.08, subdivision 1, is amended to read:

Subdivision 1. [ELECTION OF COVERAGE BY CURRENT RETIREES.] A person who is receiving a service pension, disability benefit, or survivorship benefit is eligible to elect benefit coverage provided under the relevant provisions of the public employees police and fire fund benefit plan or to retain benefit coverage provided under the relief association benefit plan in effect on the effective date of the consolidation. The relevant provisions of the public employees police and fire fund benefit plan for the person electing that benefit coverage ~~shall be~~ are limited to participation in the Minnesota postretirement investment fund for any future postretirement adjustments ~~in based on the amount of the benefit or pension payable as of on December 31, if December 31 is the effective date of consolidation, or on the December 1 following the effective date of the consolidation, the date as of which pension or benefit payments are to be paid and the termination of a survivor or disability benefit or suspension of a retirement annuity before the death of the person if other than December 31.~~ The survivorship benefit payable on behalf of any service pension or disability benefit recipient who elects benefit coverage ~~provided under the relevant provisions of the public employees police and fire fund benefit plan must be calculated under the relief association benefit plan in effect on the effective date of the consolidation~~ and is subject to participation in the Minnesota postretirement investment fund for any future postretirement adjustments ~~in~~ based on the amount of the survivorship benefit payable.

By electing the public employees police and fire fund benefit plan, a current service pension or disability benefit recipient who, as of the first January 1 occurring after the effective date of consolidation, has been receiving the pension or benefit for at least seven months, or any survivor benefit recipient who, as of the first January 1 occurring after the effective date of consolidation, has been receiving the benefit on the person's own behalf or in combination with a prior applicable service pension or disability benefit for at least seven months is eligible to receive a partial adjustment payable from the Minnesota postretirement investment fund under section 11A.18, subdivision 9.

The election by any pension or benefit recipient must be made on or before the deadline established by the board of the public employees retirement association in a manner that recognizes the number of persons eligible to make the election and the anticipated time required to conduct any required benefit counseling.

Sec. 40. Minnesota Statutes 1992, section 353A.08, subdivision 3, is amended to read:

Subd. 3. [ELECTION OF COVERAGE BY ACTIVE MEMBERS.] ~~Any~~ A person who is employed as a police officer or as a firefighter other than a volunteer firefighter, whichever applies, by the municipality and is an active member of the relief association ~~shall have~~ has the option to elect to ~~have~~ benefit coverage ~~provided under the relevant provisions of the public employees police and fire fund benefit plan or to retain benefit coverage provided by the relief association benefit plan in effect on the effective date of consolidation. The relevant provisions of the public employee police and fire fund benefit plan for the person electing that benefit coverage shall be~~ are the relevant provisions of the public employee police and fire fund benefit plan applicable to retirement annuities, disability benefits, and survivor benefits, including participation in the Minnesota postretirement investment fund, but excluding any provisions governing the purchase of credit for prior service or making payments in lieu of member contribution deductions applicable to any period which occurred before the effective date of consolidation.

An active member ~~shall be~~ is eligible to make an election at one of the following times:

- (a) ~~on or before the date occurring 180 days after~~ within six months of the effective date of consolidation;
- (b) ~~after~~ between the date on which the active member attains the age of 49 years and six months and ~~before~~ the date on which the active member attains the age of 50 years; or
- (c) on the date on which the active member terminates active employment ~~as a police officer or firefighter for purposes of receiving a service pension or disability benefits, or within 90 days of the date the member terminates active employment and defers receipt of a service pension, whichever applies, with the municipality in which the local relief association subject to consolidation was located.~~

Sec. 41. Minnesota Statutes 1992, section 353A.08, subdivision 5, is amended to read:

Subd. 5. [RETURNING DISABILITANTS; REEMPLOYED ANNUITANTS.] ~~Any~~ A person who is receiving a disability benefit from a consolidating local relief association as of the effective date of the consolidation and who recovers sufficiently from that disability following the effective date of the consolidation to allow for a return to active employment as a police officer or firefighter, whichever applies, with the municipality in which the consolidating relief association was located ~~shall retain~~ retains eligibility to the local relief association benefit plan only and ~~shall~~ is not be entitled to elect the public employees police and fire fund benefit plan as an active member, even if the public employees police and fire fund benefit plan was elected as a benefit recipient.

~~Any~~ A person who becomes disabled following the effective date of the consolidation ~~shall be~~ is entitled to make a benefit plan coverage election as an active member upon the termination of active employment and commencement of the disability benefit and, upon any return to active service, ~~shall retain~~ retains benefit plan coverage by the previously selected benefit plan coverage election.

~~Any~~ A person who retired from a consolidating local relief association ~~before the effective date of the consolidation or retires~~ after the effective date of the consolidation, who has elected coverage by the public employees police and fire fund benefit plan and who returns to active employment with an employing unit covered by the public employees retirement association following the effective date of consolidation ~~shall be~~ is subject to the provisions of section 353.37, ~~subdivision 1.~~

Sec. 42. Minnesota Statutes 1992, section 353A.10, subdivision 4, is amended to read:

Subd. 4. [REFUND OF CERTAIN MEMBER CONTRIBUTION AMOUNTS.] (a) The following persons are entitled to receive a refund of certain member contribution amounts under paragraph (b):

(1) A person who was an active member of a local police or firefighters relief association upon its consolidation with the public employees retirement association, who does not elect the type of benefit coverage provided by the public employees police and fire benefit plan and who begins receipt of a service pension or a disability benefit from the consolidation account, or who defers receipt of a service pension under the local relief association plan upon application for the refund of excess contributions; or

(2) A person who is the surviving spouse, or if none, the surviving minor child, or if none, the designated beneficiary of a person who was an active member of a local police or firefighters relief association upon its consolidation with the fund, who did not elect the type of benefit coverage provided by the public employees police and fire benefit plan and who dies prior to receiving a service pension or a disability benefit from the consolidation account.

(b) The refund of certain member contribution amounts is the amount by which any member contributions made to the consolidation account under section 353A.09, subdivision 4, exceeds the amount of employee or member contributions which would have been payable to the local relief association as provided in the benefit plan in effect on the effective date of consolidation, plus interest at the rate of six percent, compounded quarterly, from the date on which the contribution was made until the first of the month in which the refund is paid.

(c) A refund of certain contribution amounts must occur as soon as practicable following receipt of a valid application from the appropriate person ~~and~~ or the commencement of receipt of the service pension or disability benefit or official notification of death, whichever applies.

Sec. 43. Minnesota Statutes 1992, section 353B.11, subdivision 6, is amended to read:

Subd. 6. [DISCONTINUATION; SURVIVING SPOUSE BENEFIT.] (a) Except as specified in paragraph (b) or (c), a surviving spouse benefit ~~shall terminate~~ terminates upon the death or the subsequent marriage of the person entitled to receive or receiving a surviving spouse benefit.

(b) A surviving spouse benefit ~~shall terminate~~ terminates upon the subsequent marriage of the person entitled to receive or receiving a surviving spouse benefit but ~~shall recommence~~ recommences at the appropriate amount without any retroactive payments in the event of the termination of the subsequent marriage for any reason for the former members of the following consolidating relief associations:

- (1) Albert Lea firefighters relief association;
- (2) ~~Albert Lea police relief association;~~
- (3) Duluth firefighters relief association;
- (4) ~~(3)~~ Minneapolis fire department relief association;
- (5) ~~(4)~~ St. Paul fire department relief association; and
- (6) ~~(5)~~ St. Paul police relief association.

(c) A surviving spouse benefit shall terminate only upon the death of the person entitled to receive or receiving a surviving spouse benefit for the former members of the following consolidating relief associations:

- (1) ~~Albert Lea police relief association;~~
- (2) Anoka police relief association;
- (3) ~~(2)~~ Buhl police relief association;
- (4) ~~(3)~~ Chisholm fire department relief association;
- (5) ~~(4)~~ Chisholm police relief association;
- (6) ~~(5)~~ Crookston fire department relief association;
- (7) ~~(6)~~ Duluth police relief association;
- (8) ~~(7)~~ Faribault fire department relief association;
- (9) ~~(8)~~ Hibbing firefighters relief association;
- (10) ~~(9)~~ Hibbing police relief association;
- (11) ~~(10)~~ Mankato fire department relief association;
- (12) ~~(11)~~ Red Wing fire department relief association;

- (12) (13) Red Wing police relief association;
- (13) (14) Rochester fire department relief association;
- (14) (15) Rochester police relief association;
- (15) (16) St. Cloud fire department relief association;
- (16) (17) St. Louis Park fire department relief association;
- (17) (18) St. Louis Park police relief association;
- (18) (19) South St. Paul firefighters relief association;
- (19) (20) South St. Paul police relief association;
- (20) (21) West St. Paul firefighters relief association;
- (21) (22) Winona fire department relief association; and
- (22) (23) Winona police relief association.

Sec. 44. Minnesota Statutes 1992, section 353C.08, subdivision 1, is amended to read:

Subdivision 1. [DUTY DISABILITY QUALIFICATION REQUIREMENTS.] A local government correctional employee who ~~is less than 55 years of age and who~~ becomes disabled and physically unfit to perform the duties of the position as a direct result of an injury, sickness, or other disability incurred in or arising out of any act of duty that renders the employee physically or mentally unable to perform the employee's duties, is entitled to a disability benefit based on covered service only in an amount equal to 45 percent of the average salary defined in section 353C.06, subdivision 2, plus an additional 2.5 percent for each year of covered service in excess of 20 years.

Sec. 45. Minnesota Statutes 1992, section 353C.08, subdivision 2, is amended to read:

Subd. 2. [NONDUTY DISABILITY QUALIFICATION REQUIREMENTS.] A local government correctional employee who has at least one year of covered service, and ~~who, before reaching the age of 55,~~ becomes disabled and physically unfit to perform the duties of the position because of sickness or injury occurring while not engaged in covered employment, is entitled to a disability benefit based on covered service. The disability benefit must be computed in the same manner as an annuity under section 353C.06, subdivision 3, and as though the employee had at least ten years of covered correctional service.

Sec. 46. Minnesota Statutes 1992, section 353D.02, is amended to read:

353D.02 [ELECTION OF COVERAGE.]

Eligible elected local government officials may elect to participate in the defined contribution plan after being elected or appointed to elective public office by filing a membership application on a form prescribed by the executive director of the association authorizing contributions to be deducted from the elected official's salary. Participation begins on the first day of the pay period for which the contributions were deducted or, if pay period coverage dates are not provided, the date on which the membership application or contributions are received in the office of the association, whichever is received first, provided further that the membership application is received by the association within 60 days of the receipt of the contributions. ~~If the membership application is not received, the elected official is not a participant in the plan and may request a refund under section 353D.04, subdivision 2.~~ An election to participate in the plan is ~~irrevocable~~ revocable during incumbency.

Each public ambulance service or privately operated ambulance service with eligible personnel that receives an operating subsidy from a governmental entity may elect to participate in the plan. If a service elects to participate, its eligible personnel may elect to participate or to decline to participate. An individual's election must be made within 30 days of the service's election to participate or 30 days of the date on which the individual was employed by the service or began to provide service for it, whichever date is later. An election by a service or an individual is ~~irrevocable~~ revocable.

Sec. 47. Minnesota Statutes 1992, section 353D.04, is amended to read:

353D.04 [CONTRIBUTIONS AND DEDUCTIONS IN ERROR.]

~~Subdivision 1. [CONTRIBUTIONS.]~~ (a) Contributions made by or on behalf of a participating elected local government official must be remitted to the public employees retirement association and credited to the individual account established for the participant.

(b) Ambulance service contributions must be remitted on a regular basis to the association together with any member contributions paid or withheld. Those contributions must be credited to the individual account of each participating member.

~~Subd. 2. [DEDUCTIONS IN ERROR.]~~ The executive director may adopt policies and procedures regarding deductions taken totally or partially in error by the employer from the salary of an elected official, and contributions made by the employer may be refunded upon request to the elected official and the employer.

~~(a) In the case of a total refund, the association shall refund the value of an elected official's account, including investment earnings, the accumulated employee deductions, accumulated employer contributions, less administrative expenses under section 353D.05, subdivision 3.~~

~~(b) In the case of a partial refund, the association shall refund the amount of the actual error, without interest, less the administrative expenses under section 353D.05, subdivision 3, from the employer share.~~

Sec. 48. Minnesota Statutes 1992, section 353D.05, subdivision 3, is amended to read:

Subd. 3. [ADMINISTRATIVE EXPENSES.] The executive director of the association shall annually set an amount to recover the costs of the association in administering the public employees defined contribution plan. ~~If that are not met by the amount recovered under section 11A.17 does not meet the annual costs of administering the defined contribution plan, the executive director may assess an additional amount up to two percent of the employer and employee contributions.~~

Sec. 49. Minnesota Statutes 1992, section 353D.07, subdivision 2, is amended to read:

Subd. 2. [PAYMENT OF BENEFITS.] Withdrawal of a benefit based on individual participant contributions and employer contributions plus accrued investment income is payable upon the death or termination of a participant but not at the time an individual revokes membership in the defined contribution plan under section 353D.02. An application by or on behalf of the participant must be filed before any payment of benefits may be made.

Sec. 50. Minnesota Statutes 1992, section 356.302, subdivision 4, is amended to read:

Subd. 4. [PUBLIC SAFETY PLAN ELIGIBILITY REQUIREMENTS.] A disabled member of a covered retirement plan who has credit for allowable service in a combination of public safety employee retirement plans is entitled to a combined service disability benefit if the member:

- ~~(1) is less than 55 years old on the date of application for the disability benefit;~~
- ~~(2) has become occupationally disabled;~~
- ~~(3) (2) has credit for allowable service in any combination of public safety employee retirement plans totaling at least one year if the disability is duty-related or totaling at least three years if the disability is not duty-related;~~
- ~~(4) (3) has credit for at least six months of allowable service with the current public safety employee retirement plan before the commencement of the disability; and~~
- ~~(5) (4) is not receiving a retirement annuity or disability benefit from any covered public safety employee retirement plan at the time of the commencement of the disability.~~

Sec. 51. Minnesota Statutes 1992, section 356.453, is amended to read:

356.453 [PURCHASE OF PRIOR SERVICE.]

~~Any~~ A person who is excluded from pension coverage ~~pursuant to~~ under the provisions of Laws 1978, chapter 720, but who subsequently becomes employed in unsubsidized public employment with public pension plan or fund coverage, whether with the same public employer which provided the subsidized employment or another public employer, ~~shall be is~~ entitled to purchase service credit for that period of prior subsidized public employment, other than a period of prior subsidized public employment for which a repayment of a refund ~~pursuant to~~ under section 356.452 is made, with the public pension plan or fund which, except for the exclusion provided for by Laws 1978, chapter 720, would have provided pension coverage for the subsidized employment. Payment ~~shall~~ must include all employee and employer contributions at the rates and on the salary in effect when the subsidized employment was rendered plus interest at the rate of ~~six~~ 8.5 percent per annum compounded annually from the year purchased to the date payment is made; provided, however, that the employer for the unsubsidized employment, the employer for the subsidized employment, or the applicable federal Comprehensive Employment and Training Act prime sponsor from funds provided under the federal Comprehensive Employment and Training Act, as funds permit, may pay the employer contribution and the employer additional contribution, if any, plus interest at the specified rate. The public employer which provided the subsidized employment shall provide whatever documentation of periods of subsidized public employment and the salary received that the pension plan or fund shall require. Payment ~~shall~~ must be made in one lump sum by the date of retirement and no service credit with respect to the payment ~~shall~~ may be granted until payment is received by the pension plan or fund.

Sec. 52. Minnesota Statutes 1992, section 356.61, is amended to read:

356.61 [LIMITATION ON PUBLIC EMPLOYEE RETIREMENT ANNUITIES.]

Notwithstanding any provision of law, bylaws, articles of incorporation, retirement and disability allowance plan agreements or retirement plan contracts to the contrary, no person who has pension or retirement coverage by a public pension plan ~~shall be is~~ entitled to receive a monthly retirement annuity or disability benefit which, at the time of commencement of the retirement annuity or disability benefit, exceeds ~~the lesser of:~~

~~(a) the amount of the final monthly salary of the person; or~~

~~(b) 1/12 of the amount of the annual benefit permitted by the terms of section 415 of the Internal Revenue Code with respect to a participant in a plan qualified under section 401(a) of the Internal Revenue Code, as amended through December 31, 1982.~~

The benefit limitation ~~of clause (b)~~ is to be determined on the date the benefit is initially payable or on the date the employee terminated employment, if earlier. The benefit limitation on any date is the benefit limitation for the limitation year in which the date occurs. The limitations apply only to the annual benefit which is derived from employer contributions. Mandatory and voluntary employee contributions, if any, are treated as a separate defined contribution plan maintained by the employer which is subject to the limitations placed on annual additions to defined contribution plans.

The maximum annual benefit ~~of clause (b)~~ for any limitation year is the lesser of (1) or (2) below:

(1) A dollar limitation of \$90,000, adjusted as of January 1 of each calendar year to the dollar limitation as determined for that year by the commissioner of Internal Revenue. The amount determined for any year will apply to limitation years ending with or within that calendar year.

(2) A compensation limitation of 100 percent of the average of compensation paid or made available to the participant by the employer during those three consecutive calendar years of employment, or actual number of consecutive calendar years of employment if employed less than three consecutive years, which give the highest average. Compensation means any compensation which is includable in the employee's gross income.

A benefit ~~shall be is~~ deemed not to exceed the maximum benefit limitation ~~of clause (b)~~ if:

(1) the retirement benefits payable under the plan and under any other defined benefit plans of the employer do not exceed the \$10,000 limit set in section 415(b)(4) of the Internal Revenue Code for the plan year, or for any prior plan year, and

(2) the employer has not at any time maintained a defined contribution plan in which the employee participated.

A public pension plan is any Minnesota public pension plan or fund which provides pension or retirement coverage for public employees other than volunteer firefighters, including any plan or fund enumerated in sections 356.20, subdivision 2, or 356.30, subdivision 3, any local police or firefighter's relief association to which section 69.77 applies, or any retirement or pension plan or fund, including a supplemental retirement plan or fund, established, maintained or supported by any governmental subdivision or public body whose revenues are derived from taxation, fees, assessments or from other public sources. ~~Final monthly salary is the hourly rate of compensation received by the person on account of the most recent public employment for the final pay period occurring prior to retirement multiplied by 174.~~

The figure for the monthly retirement annuity or disability benefit to be used for the calculation of this limitation shall must not include any reduction or adjustment required for retirement prior to the normal retirement age or required for the election of an optional annuity.

If the figure for the monthly retirement annuity or disability benefit exceeds the limit contained in this section, the annuity or benefit payable shall must be reduced appropriately.

The managing board of each public pension plan from which a retirement annuity or disability benefit is payable shall, at the time that the retirement annuity or disability benefit commences, contact all other public pension plans to determine whether or not the recipient of the retirement annuity or disability benefit is also receiving or is entitled to receive a retirement annuity or disability benefit from any other public pension plan. If a person is entitled to receive or is receiving a retirement annuity or disability benefit from more than one public pension plan, all retirement annuities or disability benefits from all public pension plans shall must be totaled in determining whether or not the limitation shall apply; ~~provided however, that the limitation shall be based on the highest final monthly salary received by the individual from any plan applies.~~ Any A reduction in the amount of the retirement annuity or disability benefit required pursuant to under this section shall be is made by the public pension plan which provided retirement coverage for the most recent period of service.

Sec. 53. [REPEALER.]

Minnesota Statutes 1992, section 353.656, subdivision 6, is repealed retroactive to October 16, 1992.

Sec. 54. [EFFECTIVE DATE.]

Sections 1 to 18, 20, 22 to 24, 27 to 29, 31, 32, 36, 37, 39 to 43, 46 to 49, and 52 are effective July 1, 1993. Section 30 is effective January 1, 1993. Sections 19, 21, 25, 26, 33, 34, 35, 38, 44, 45, 50 and 53 are effective retroactively to October 16, 1992. Section 51 is effective May 1, 1994.

ARTICLE 5

TEACHERS RETIREMENT ASSOCIATION

Section 1. Minnesota Statutes 1992, section 354.35, is amended to read:

354.35 [OPTIONAL ACCELERATED RETIREMENT ANNUITY BEFORE AGE 65.]

Any coordinated member who retires before 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 is exercised by making an application to the board on a form provided by the board executive director. The optional accelerated retirement annuity must take the form of an annuity payable for the period before the member attains age 65 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 the optional accelerated retirement annuity must be the actuarial equivalent of the member's annuity computed on the basis of the member's age at retirement. The greater amount must be paid until the retiree reaches age 65 and at that time the payment from the association 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. At retirement, members who retire before age 62 may elect to have the age specified in this section be 62 instead of 65. This election is irrevocable and may be made only once on the application form provided by the executive director. The method of computing the optional accelerated retirement annuity provided in this section is established by the board of trustees. In establishing the method of computing the optional accelerated retirement annuity, the board of trustees must obtain the written approval of the commission-retained actuary. The written approval must be a part of the permanent records of the board of trustees.

Sec. 2. Minnesota Statutes 1992, section 354.46, subdivision 1, is amended to read:

Subdivision 1. [BASIC PROGRAM; BENEFITS FOR SPOUSE AND CHILDREN OF TEACHER.] If a basic member who has at least 18 months of allowable service credit and who has an average salary as defined in section 354.44, subdivision 6, equal to or greater than \$75 dies prior to retirement or if a former basic member who, at the time of death, was totally and permanently disabled and receiving disability benefits pursuant to section 354.48 dies prior to attaining the age of 65 years before attaining age 65 or reaching the five-year anniversary of the effective date of the disability benefit, whichever is later, the surviving dependent spouse and dependent children of the basic member or former basic member shall be entitled to receive a monthly benefit as follows:

- (a) Surviving dependent spouse 50 percent of the basic member's monthly average salary paid in the last full fiscal year preceding death
- (b) Each dependent child ten percent of the basic member's monthly average salary paid in the last full fiscal year preceding death

Payments for the benefit of any dependent child under the age of 22 years shall be made to the surviving parent, or if there be none, to the legal guardian of the child. The maximum monthly benefit shall not exceed \$1,000 for any one family, and the minimum benefit per family shall not be less than 50 percent of the basic member's average salary, subject to the foregoing maximum. The surviving dependent children's benefit shall be reduced pro tanto when any surviving child is no longer dependent.

If the basic member and the surviving dependent spouse are killed in a common disaster and if the total of all survivors benefits payable pursuant to this subdivision is less than the accumulated deductions plus interest payable, the surviving dependent children shall receive the difference in a lump sum payment.

If the survivor benefits provided in this subdivision exceed in total the monthly average salary of the deceased basic member, these benefits shall be reduced to an amount equal to the deceased basic member's monthly average salary.

Prior to payment of any survivor benefit pursuant to this subdivision, in lieu of that benefit, the surviving dependent spouse may elect to receive the joint and survivor annuity provided pursuant to subdivision 2, or may elect to receive a refund of accumulated deductions with interest in a lump sum as provided pursuant to section 354.47, subdivision 1. If there are any surviving dependent children, the surviving dependent spouse may elect to receive the refund of accumulated deductions only with the consent of the district court of the district in which the surviving dependent child or children reside.

Sec. 3. Minnesota Statutes 1992, section 354.48, subdivision 3, is amended to read:

Subd. 3. [COMPUTATION OF BENEFITS.] (1) The amount of the disability benefit granted to members covered under section 354.44, subdivision 2, clauses (1) and (2), is an amount equal to double the annuity which could be purchased by the member's accumulated deductions plus interest on the amount computed as though the teacher were at normal retirement age at the time the benefit begins to accrue and in accordance with the law in effect when the disability application is received. Any member who applies for a disability benefit after June 30, 1974, and who failed to make an election pursuant to Minnesota Statutes 1971, section 354.145, shall have the disability benefit computed under this clause or clause (2), whichever is larger.

The benefit granted shall be determined by the following:

- (a) the amount of the accumulated deductions;
- (b) interest actually earned on these accumulated deductions to the date the benefit begins to accrue;
- (c) interest for the years from the date the benefit begins to accrue to the date the member attains normal retirement age at the rate of three percent;

(d) annuity purchase rates based on an appropriate annuity table of mortality established by the board as provided in section 354.07, subdivision 1, and using the applicable postretirement interest rate assumption specified in section 356.215, subdivision 4d.

In addition, a supplementary monthly benefit shall of \$25 to age 65 or the five-year anniversary of the effective date of the disability benefit, whichever is later, must be paid to basic members only in accordance with the following table:

Age When Benefit Begins to Accrue	Supplementary Benefit
Under Age 56	\$50
56	45
57	40
58	35
59	30
60	25
61	20
62	15
63	10
64	5

(2) The disability benefit granted to members covered under section 354.44, subdivision 6, shall be computed in the same manner as the annuity provided in section 354.44, subdivision 6. The disability benefit shall be the formula annuity without the reduction for each month the member is under normal retirement age when the benefit begins to accrue.

(3) For the purposes of computing a retirement annuity when the member becomes eligible, the amounts paid for disability benefits shall not be deducted from the individual member's accumulated deductions. If the disability benefits provided in this subdivision exceed the monthly average salary of the disabled member, the disability benefits shall be reduced to an amount equal to the disabled member's average salary.

Sec. 4. Minnesota Statutes 1992, section 354.48, subdivision 10, is amended to read:

Subd. 10. [RETIREMENT STATUS AT NORMAL RETIREMENT AGE.] No person shall be entitled to receive both a disability benefit and a retirement annuity provided by this chapter. The disability benefit paid to a person hereunder shall terminate at the end of the month in which the person attains normal retirement age. If the person is still totally and permanently disabled at the beginning of the month next following the month in which the person attains the normal retirement age, the person shall be deemed to be on retirement status and, if the person had elected an optional annuity pursuant to subdivision 3a, shall receive an annuity in accordance with the terms of the optional annuity previously elected, or, if the person had not elected an optional annuity pursuant to subdivision 3a, may at the option of the person elect to receive either a straight life retirement annuity computed pursuant to section 354.44 or a straight life retirement annuity equal to the disability benefit paid prior to the date on which the person attained the age of 65 years attains age 65 or reaches the five-year anniversary of the effective date of the disability benefit, whichever amount is greater later, or elect to receive an optional annuity as provided in section 354.45, subdivision 1. Election of an optional annuity shall must be made prior to the person attaining the normal retirement age within 90 days of age 65 or the five-year anniversary of the effective date of the disability benefit, whichever is later. If an optional annuity is elected, the election shall be effective on the date on which the person attains the normal retirement age and age 65 or reaches the five-year anniversary of the effective date of the disability benefit, whichever is later. The optional annuity shall begin to accrue on the first day of the month next following the month in which the person attains that age 65 or reaches the five-year anniversary of the effective date of the disability benefit, whichever is later.

Sec. 5. [EFFECTIVE DATES.]

Section 1 is effective January 1, 1994. Sections 2 to 4, are effective retroactively to October 16, 1992.

ARTICLE 6

SURVIVING SPOUSE BENEFITS

Section 1. Minnesota Statutes 1992, section 352.12, subdivision 2, is amended to read:

Subd. 2. [SURVIVING SPOUSE BENEFIT.] If an employee or former employee ~~is at least 50 years old and has credit for at least three years allowable service or who has credit for at least 30 years of allowable service, regardless of age,~~ dies before an annuity or disability benefit has become payable, notwithstanding any designation of beneficiary to the contrary, the surviving spouse of the employee may elect to receive, in lieu of the refund with interest provided in subdivision 1, an annuity equal to the joint and 100 percent survivor annuity which the employee could have qualified for had the employee terminated service on the date of death. The surviving spouse may apply for the annuity at any time after the date on which the deceased employee would have attained the required age for retirement based on the employee's allowable service. The annuity must be computed as provided in sections 352.115, subdivisions 1, 2, and 3, and 352.116, subdivisions 1, 1a, and 3. Sections 352.22, subdivision 3, and 352.72, subdivision 2, apply to a deferred annuity payable under this subdivision. The annuity must cease with the last payment received by the surviving spouse in the lifetime of the surviving spouse. An amount equal to the excess, if any, of the accumulated contributions credited to the account of the deceased employee in excess of the total of the benefits paid and payable to the surviving spouse must be paid to the deceased employee's last designated beneficiary or, if none, to the surviving children of the deceased spouse in equal shares or, if none, to the surviving parents of the deceased spouse or, if none, to the representative of the estate of the deceased spouse. Any employee may request in writing that this subdivision not apply and that payment be made only to a designated beneficiary as otherwise provided by this chapter.

Sec. 2. Minnesota Statutes 1992, section 353.32, subdivision 1a, is amended to read:

Subd. 1a. [SURVIVING SPOUSE OPTIONAL ANNUITY.] If a member or former member ~~who has attained at least age 50 and has credit for not less than three years of allowable service or who has credit for not less than 30 years of allowable service, regardless of age attained,~~ dies before the annuity or disability benefit begins to accrue under section 353.29, subdivision 7, or 353.33, subdivision 2, notwithstanding any designation of beneficiary to the contrary, the surviving spouse may elect to receive, instead of a refund with interest under subdivision 1, or surviving spouse benefits otherwise payable under section 353.31, an annuity equal to the 100 percent joint and survivor annuity that the member could have qualified for had the member terminated service on the date of death.

Notwithstanding the definition of surviving spouse in section 353.01, subdivision 20, a former spouse of the member, if any, is entitled to a portion of the monthly surviving spouse optional annuity if stipulated under the terms of a marriage dissolution decree filed with the association. If there is no surviving spouse or child or children, a former spouse may be entitled to a lump-sum refund payment under subdivision 1, if provided for in a marriage dissolution decree but not a monthly surviving spouse optional annuity despite the terms of a marriage dissolution decree filed with the association.

The surviving spouse may apply for the annuity at any time after the date on which the deceased employee would have attained the required age for retirement based on the employee's allowable service. The annuity must be computed under sections 353.29, subdivisions 2 and 3; 353.30, subdivisions 1, 1a, 1b, 1c, and 5; and 353.31, subdivision 3. Sections 353.34, subdivision 3, and 353.71, subdivision 2, apply to a deferred annuity payable under this subdivision. No payment may accrue beyond the end of the month in which entitlement to the annuity has terminated. An amount equal to any excess of the accumulated contributions that were credited to the account of the deceased employee over and above the total of the annuities paid and payable to the surviving spouse must be paid to the deceased member's last designated beneficiary or, if none, to the legal representative of the estate of the deceased member. A member may specify in writing that this subdivision does not apply and that payment may be made only to the designated beneficiary as otherwise provided by this chapter.

Sec. 3. Minnesota Statutes 1992, section 354.46, subdivision 2, is amended to read:

Subd. 2. [DEATH WHILE ELIGIBLE DESIGNATED BENEFICIARY BENEFIT.] The surviving spouse of any member or former member ~~who has attained the age of at least 50 years and has credit for at least three years of allowable service or who has credit for at least 30 years of allowable service irrespective of age~~ is entitled to joint and survivor annuity coverage in the event of death of the member prior to retirement. If the surviving spouse does not elect to receive a surviving spouse benefit provided pursuant to subdivision 1, if applicable, or does not elect to receive a refund of accumulated member contributions provided pursuant to section 354.47, subdivision 1, the

surviving spouse is entitled to receive, upon written application on a form prescribed by the executive director, a benefit equal to the second portion of a 100 percent joint and survivor annuity as provided pursuant to section 354.45 and computed pursuant to section 354.44, subdivision 2, 6, or 7, whichever is applicable. The surviving spouse may apply for the annuity at any time after the date on which the deceased employee would have attained the required age for retirement based on the employee's allowable service. This benefit accrues from the day following the date of death but may not begin to accrue more than six months before the date the application is filed with the executive director. Sections 354.44, subdivision 6 and 354.60 apply to a deferred annuity payable under this section. The benefit is payable for life.

Sec. 4. [EFFECTIVE DATE.]

Sections 1 to 3 are effective the day after final enactment.

ARTICLE 7

REPEALER AND EFFECTIVE DATE

Section 1. [REPEALER.]

Minnesota Statutes 1992, sections 3A.06; 352.01, subdivision 7; 352.12, subdivision 5; 352.22, subdivision 9; 352.73; 352B.01, subdivision 2a; 352B.131; 352B.14; 352B.261; 352B.262; 352B.28; and 352D.05, subdivision 5, are repealed.

Sec. 2. [EFFECTIVE DATE.]

Section 1 is effective the day following final enactment."

Delete the title and insert:

"A bill for an act relating to retirement; administrative changes, age discrimination act compliance, death-while-active surviving spouse benefit improvements by the Minnesota state retirement system, the public employees retirement association, and teachers retirement association; amending Minnesota Statutes 1992, sections 3A.02, subdivision 1, and by adding a subdivision; 352.01, subdivisions 2b, and by adding a subdivision; 352.03, subdivisions 4, 4a, and 6; 352.04, subdivision 9; 352.113, subdivisions 2, 4, and 7; 352.115, subdivision 8; 352.12, subdivisions 1, 2, 3, 4, 7, 10, and 13; 352.15, subdivision 1a, and by adding subdivisions; 352.22, subdivisions 1 and 2; 352.23; 352.85, subdivision 4; 352.93, subdivision 2a; 352.94; 352.95, subdivisions 1, 2, 3, and 5; 352.951; 352.96, subdivisions 3 and 4; 352B.01, subdivisions 3 and 11; 352B.08, subdivisions 1 and 2a; 352B.10, subdivisions 1, 2, and 5; 352B.101; 352B.105; 352B.11, subdivision 2; 352C.01; 352C.021; 352C.031; 352C.033; 352C.04; 352C.051; 352C.09; 352D.015, subdivision 4; 352D.02, subdivision 3, and by adding a subdivision; 352D.04, subdivision 1; 352D.05, subdivisions 1, 3, and 4; 352D.09, subdivision 5, and by adding subdivisions; 353.01, subdivisions 2, 2a, 2b, 6, 7, 10, 11a, 12, 16, 28, 31, 32, and by adding subdivisions; 353.017; 353.27, subdivision 7; 353.29, subdivision 1; 353.32, subdivision 1a; 353.33, subdivisions 1, 2, 3, 4, 6, 8, 11, and by adding a subdivision; 353.34, subdivisions 1 and 3; 353.35; 353.37; 353.64, subdivisions 1 and 5a; 353.656, subdivisions 1, 1a, 3, 5, and by adding subdivisions; 353A.08, subdivisions 1, 3, and 5; 353A.10, subdivision 4; 353B.11, subdivision 6; 353C.08, subdivisions 1 and 2; 353D.02; 353D.04; 353D.05, subdivision 3; 353D.07, subdivision 2; 354.35; 354.46, subdivisions 1 and 2; 354.48, subdivisions 3 and 10; 356.302, subdivisions 4 and 6; 356.453; 356.61; and 490.124, subdivisions 1 and 4; proposing coding for new law in Minnesota Statutes, chapter 3A; repealing Minnesota Statutes 1992, sections 3A.06; 352.01, subdivision 7; 352.12, subdivision 5; 352.22, subdivision 9; 352.73; 352B.01, subdivision 2a; 352B.131; 352B.14; 352B.261; 352B.262; 352B.28; 352D.05, subdivision 5; and 353.656, subdivision 6."

With the recommendation that when so amended the bill pass.

The report was adopted.

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

H. F. No. 608, A bill for an act relating to agriculture; exempting certain nonprofit organizations from the requirement for a nursery stock dealer certificate; proposing coding for new law in Minnesota Statutes, chapter 18.

Reported the same back with the following amendments:

Page 1, line 9, after "offering" insert "certified"

Page 1, line 13, after "of" insert "certified"

With the recommendation that when so amended the bill pass.

The report was adopted.

Skoglund from the Committee on Judiciary to which was referred:

H. F. No. 611, A bill for an act relating to health care; creating the children's mental health integrated fund; establishing an integrated service system for delivering mental health services to children; creating local children's mental health collaboratives; extending the statewide task force; appropriating money; amending Minnesota Statutes 1992, sections 245.4873, subdivision 2; and 256B.0625, by adding subdivisions; Laws 1991, chapter 292, article 6, section 57, subdivisions 1 and 3; proposing coding for new law in Minnesota Statutes, chapter 245.

Reported the same back with the recommendation that the bill pass and be re-referred to the Committee on Governmental Operations and Gambling.

The report was adopted.

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

H. F. No. 687, A bill for an act relating to agriculture; requiring aquatic pest control applicators to be licensed; establishing categories of commercial aquatic applicator and certified aquatic applicator; amending Minnesota Statutes 1992, section 18B.32.

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

The report was adopted.

Osthoff from the Committee on Transportation and Transit to which was referred:

H. F. No. 720, A bill for an act relating to town roads; permitting cartways to be established on alternative routes; amending Minnesota Statutes 1992, section 164.08, subdivision 2.

Reported the same back with the following amendments:

Page 2, after line 22, insert:

"Sec. 2. [ESTABLISHMENT OF AN OFFICE OF DEPUTY REGISTRAR OF MOTOR VEHICLES IN DEER RIVER.]

Notwithstanding Minnesota Statutes, section 168.33, and rules adopted by the commissioner of public safety, limiting sites for the office of deputy registrar, the Itasca county auditor may, with the approval of the commissioner of public safety, establish an office of the deputy registrar of motor vehicles in the city of Deer River. All other provisions regarding the appointment and operation of a deputy registrar office under Minnesota Statutes, section 168.33, and Minnesota Rules, chapter 7406, shall apply to the office.

Sec. 3. [EFFECTIVE DATE.]

Section 2 shall become effective the day following final enactment without local approval as provided in Minnesota Statutes, section 645.023, subdivision 1, paragraph (a)."

Delete the title and insert:

"A bill for an act relating to local government; providing conditions for the establishment of town roads; providing for a deputy registrar of motor vehicles; amending Minnesota Statutes 1992, section 164.08, subdivision 2."

With the recommendation that when so amended the bill pass.

The report was adopted.

Kahn from the Committee on Governmental Operations and Gambling to which was referred:

H. F. No. 783, A bill for an act relating to the city of Albert Lea; actuarial assumptions for the Albert Lea fire department relief association.

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

The report was adopted.

Skoglund from the Committee on Judiciary to which was referred:

H. F. No. 922, A bill for an act relating to burial grounds; providing criminal penalties for the disturbance of human burial grounds; creating civil remedies for the destruction or disturbance of human burial grounds; creating a council of traditional Indian practitioners to make recommendations regarding the management, treatment, and protection of Indian burial grounds and of human remains or artifacts contained in or removed from those grounds; amending Minnesota Statutes 1992, section 307.08, subdivision 2; proposing coding for new law in Minnesota Statutes, chapter 307.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 1992, section 307.08, subdivision 2, is amended to read:

Subd. 2. A person who intentionally, willfully, and knowingly destroys, mutilates, injures, disturbs, or removes human skeletal remains or human burials burial grounds, is guilty of a felony. A person who intentionally, willfully, or knowingly removes any tombstone, monument, or structure placed in any public or private cemetery or unmarked human burial ground, or any fence, railing, or other work erected for protection or ornament, or any tree, shrub, or plant or grave goods and artifacts within the limits of the cemetery or burial ground, and a person who, without authority from the trustees, state archaeologist, or Indian affairs intertribal board, discharges any firearms upon or over the grounds of any public or private cemetery or authenticated and identified Indian burial ground, is guilty of a gross misdemeanor.

Sec. 2. [307.082] [CIVIL ACTIONS.]

A person residing within the state; the attorney general; a political subdivision of the state; an instrumentality or agency of the state; or a partnership, corporation, association, organization, or other entity having shareholders, members, partners, or employees residing within the state may maintain a civil action seeking an injunction, damages, or other appropriate relief against a person who is alleged to have violated section 307.08, subdivision 2. The action must be brought within two years after the plaintiff discovers the violation. The action may be filed in the district court of the county in which the subject burial ground is located or within which the defendant resides."

Delete the title and insert:

"A bill for an act relating to burial grounds; providing criminal penalties for the disturbance of human burial grounds; creating civil remedies for the destruction or disturbance of human burial grounds; amending Minnesota Statutes 1992, section 307.08, subdivision 2; proposing coding for new law in Minnesota Statutes, chapter 307."

With the recommendation that when so amended the bill pass.

The report was adopted.

Osthoff from the Committee on Transportation and Transit to which was referred:

H. F. No. 931, A bill for an act relating to motor fuels; increasing oxygenate level requirements for gasoline; enhancing capital access program; appropriating money; amending Minnesota Statutes 1992, sections 116.07, subdivision 4a; 116J.876, subdivisions 1, 12, and by adding a subdivision; and 239.791, subdivisions 1 and 2; proposing coding for new law in Minnesota Statutes, chapter 116J.

Reported the same back with the following amendments:

Page 3, line 34, delete "with an average"

Page 3, line 35, delete the new language

Page 4, line 2, delete the new language

Page 4, line 10, reinstate the stricken language and delete "three"

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

The report was adopted.

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

H. F. No. 947, A bill for an act relating to state lands; authorizing public sale of certain tax-forfeited land that borders public water in Sherburne county.

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

The report was adopted.

Kahn from the Committee on Governmental Operations and Gambling to which was referred:

H. F. No. 984, A bill for an act relating to state government; modifying provisions relating to the department of administration; amending Minnesota Statutes 1992, sections 13.37, subdivision 2; 13B.04; 15.061; 16B.06, subdivision 2; 16B.101, subdivision 3; 16B.17; 16B.19, subdivisions 2 and 10; 16B.24, subdivision 6; 16B.27, subdivision 3; 16B.32, subdivision 2; 16B.42, subdivisions 1, 2, 3, and 4; 16B.465, subdivision 6; 16B.48, subdivisions 2 and 3; 16B.49; 16B.51, subdivisions 2 and 3; 16B.58, subdivisions 1, 5, and 8; 16B.85, subdivision 1; 94.10, subdivision 1; 343.01, subdivisions 2, 3, and by adding subdivisions; and 403.11, subdivision 1; Laws 1979, chapter 333, section 18; and Laws 1991, chapter 345, article 1, section 17, subdivision 4, as amended; proposing coding for new law in Minnesota Statutes, chapter 16B; repealing Minnesota Statutes 1992, sections 3.3026; 16B.41, subdivision 4; 16B.56, subdivision 4; and Laws 1987, chapter 394, section 13.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 1992, section 13B.04, is amended to read:

13B.04 [REPORT.]

A responsible authority that participates in a matching program shall prepare a report describing matching programs in which the responsible authority has participated during the previous calendar year. The report must be included in a state agency's description of its information systems prepared under section 3.3026, subdivision 3 filed annually with the department of administration.

Sec. 2. Minnesota Statutes 1992, section 15.061, is amended to read:

15.061 [CONSULTANT, PROFESSIONAL AND OR TECHNICAL SERVICES.]

Pursuant to the provisions of section 16B.17, the head of a state department or agency may, with the approval of the commissioner of administration, contract for ~~consultant services and professional and or~~ technical services in connection with the operation of the department or agency. A contract negotiated under this section shall not be subject to the competitive bidding requirements of chapter ~~46~~ 16B.

Sec. 3. Minnesota Statutes 1992, section 16B.06, subdivision 2, is amended to read:

Subd. 2. [VALIDITY OF STATE CONTRACTS.] A state contract or lease is not valid and the state is not bound by it until it has first been executed by the head of the agency which is a party to the contract and has been approved in writing by the commissioner or a delegate, under this section, ~~by the attorney general or a delegate as to form and execution, and by the commissioner of finance or a delegate who shall determine that the appropriation and allotment have been encumbered for the full amount of the contract liability.~~ The head of the agency may delegate the execution of specific contracts or specific types of contracts to ~~a deputy or assistant head within the an agency employee~~ if the delegation has been approved by the commissioner of administration and filed with the secretary of state. A copy of every contract or lease extending for a term longer than one year must be filed with the commissioner of finance.

Sec. 4. Minnesota Statutes 1992, section 16B.17, is amended to read:

16B.17 [CONSULTANTS AND PROFESSIONAL OR TECHNICAL SERVICES.]

Subdivision 1. [TERMS.] For the purposes of this section, the following terms have the meanings given them:

(a) [CONSULTANT SERVICES.] "Consultant services" "professional or technical services" means services which are intellectual in character; which do not involve the provision of supplies or materials; which include consultation, analysis, evaluation, prediction, planning, or recommendation; and which result in the production of a report or the completion of a task.

(b) [PROFESSIONAL AND TECHNICAL SERVICES.] "~~Professional and technical services~~" means ~~services which are predominantly intellectual in character; which do not involve the provision of supplies or materials; and in which the final result is the completion of a task rather than analysis, evaluation, prediction, planning, or recommendation.~~

Subd. 2. [PROCEDURE FOR ~~CONSULTANT AND PROFESSIONAL AND OR~~ TECHNICAL SERVICES CONTRACTS.] Before approving a proposed state contract for ~~consultant services or professional and or~~ technical services the commissioner must determine, at least, that:

- (1) all provisions of section 16B.19 and subdivision 3 of this section have been verified or complied with;
- (2) the work to be performed under the contract is necessary to the agency's achievement of its statutory responsibilities, and there is statutory authority to enter into the contract;
- (3) the contract will not establish an employment relationship between the state or the agency and any persons performing under the contract;

- (4) no current state employees will engage in the performance of the contract;
- (5) no state agency has previously performed or contracted for the performance of tasks which would be substantially duplicated under the proposed contract; and
- (6) the contracting agency has specified a satisfactory method of evaluating and using the results of the work to be performed.

Subd. 3. [DUTIES OF CONTRACTING AGENCY.] Before an agency may seek approval of a ~~consultant or professional and or~~ technical services contract valued in excess of \$5,000, it must certify to the commissioner that:

- (1) no state employee is able to perform the services called for by the contract;
- (2) the normal competitive bidding mechanisms will not provide for adequate performance of the services;
- (3) the services are not available as a product of a prior consultant or professional and technical services contract, and the contractor has certified that the product of the services will be original in character;
- (4) reasonable efforts were made to publicize the availability of the contract;
- (5) the agency has received, reviewed, and accepted a detailed work plan from the contractor for performance under the contract; and
- (6) the agency has developed, and fully intends to implement, a written plan providing for the assignment of specific agency personnel to a monitoring and liaison function; the periodic review of interim reports or other indications of past performance, and the ultimate utilization of the final product of the services; and
- (7) the agency will not allow the contractor to begin work before funds are fully encumbered.

Subd. 4. [REPORTS.] The commissioner shall submit to the governor and the legislature legislative reference library a monthly listing of all contracts for ~~consultant services and for~~ professional and or technical services executed or disapproved in the preceding month. The report must identify the parties and the contract amount, duration, and tasks to be performed. The commissioner shall also issue quarterly reports summarizing the contract review activities of the department during the preceding quarter.

Subd. 5. [CONTRACT TERMS.] A ~~consultant or technical and~~ professional or technical services contract must by its terms permit the agency to unilaterally terminate the contract prior to completion, upon payment of just compensation, if the agency determines that further performance under the contract would not serve agency purposes. If the final product of the contract is ~~to be a written report, no more than three copies of the report, one in camera ready form, shall be submitted to the~~ an agency must obtain copies in the most cost efficient manner. One of the copies must be filed with the legislative reference library.

Sec. 5. Minnesota Statutes 1992, section 16B.19, subdivision 2, is amended to read:

Subd. 2. [~~CONSULTANT, PROFESSIONAL AND OR~~ TECHNICAL PROCUREMENTS.] Every state agency shall for each fiscal year designate for awarding to small businesses at least 25 percent of the value of anticipated procurements of that agency for ~~consultant services or~~ professional and or technical services. The set-aside under this subdivision is in addition to that provided by subdivision 1, but shall otherwise comply with section 16B.17.

Sec. 6. Minnesota Statutes 1992, section 16B.19, subdivision 10, is amended to read:

Subd. 10. [APPLICABILITY.] This section does not apply to construction contracts or contracts for ~~consultant, professional, or~~ technical services under section 16B.17 that are financed in whole or in part with federal funds and that are subject to federal disadvantaged business enterprise regulations.

Sec. 7. Minnesota Statutes 1992, section 16B.24, subdivision 6, is amended to read:

Subd. 6. [PROPERTY RENTAL.] (a) [LEASES.] The commissioner shall rent land and other premises when necessary for state purposes. Notwithstanding subdivision 6a, paragraph (a), the commissioner may lease land or premises for five up to ten years or less, subject to cancellation upon 30 days written notice by the state for any reason except rental of other land or premises for the same use. The commissioner may not rent non-state-owned land and buildings or substantial portions of land or buildings within the capitol area as defined in section 15.50 unless the commissioner first consults with the capitol area architectural and planning board. If the commissioner enters into a lease-purchase agreement for buildings or substantial portions of buildings within the capitol area, the commissioner shall require that any new construction of non-state-owned buildings conform to design guidelines of the capitol area architectural and planning board. Lands needed by the department of transportation for storage of vehicles or road materials may be rented for five years or less, such leases for terms over two years being subject to cancellation upon 30 days written notice by the state for any reason except rental of other land or premises for the same use. An agency or department head must consult with the chairs of the house appropriations and senate finance committees before entering into any agreement that would cause an agency's rental costs to increase by ten percent or more per square foot or would increase the number of square feet of office space rented by the agency by 25 percent or more in any fiscal year.

(b) [USE VACANT PUBLIC SPACE.] No agency may initiate or renew a lease for space for its own use in a private building unless the commissioner has thoroughly investigated presently vacant space in public buildings, such as closed school buildings, and found that none is available or use of the space is not feasible, prudent, and cost effective compared with available alternatives.

(c) [PREFERENCE FOR CERTAIN BUILDINGS.] For needs beyond those which can be accommodated in state-owned buildings, the commissioner shall acquire and utilize space in suitable buildings of historical, architectural, or cultural significance for the purposes of this subdivision unless use of that space is not feasible, prudent and cost effective compared with available alternatives. Buildings are of historical, architectural, or cultural significance if they are listed on the national register of historic places, designated by a state or county historical society, or designated by a municipal preservation commission.

(d) [RECYCLING SPACE.] Leases for space of 30 days or more for 5,000 square feet or more must require that space be provided for recyclable materials.

Sec. 8. Minnesota Statutes 1992, section 16B.24, is amended by adding a subdivision to read:

Subd. 9a. [SMOKING PROHIBITED.] Smoking is prohibited in the state office building and in the capitol building.

Sec. 9. Minnesota Statutes 1992, section 16B.27, subdivision 3, is amended to read:

Subd. 3. [COUNCIL.] The governor's residence council consists of the following ~~15~~ 19 members: the commissioner; the spouse, or a designee of the governor; the executive director of the Minnesota state arts board; the director of the Minnesota historical society; a member of the senate appointed pursuant to the rules of the senate; a member of the house of representatives appointed pursuant to the rules of the house of representatives; ~~seven~~ 13 persons appointed by the governor including one in the field of higher education, one member of the American Society of Interior Designers, Minnesota Chapter, one member of the American Institute of Architects, Minnesota chapter, one member of the American Society of Landscape Architects, Minnesota Chapter, one member of the family that donated the governor's residence to the state, if available, and ~~four~~ eight public members with four public members' terms being coterminous with the governor who appoints them. Members of the council serve without compensation. Membership terms, removal, and filling of vacancies for members appointed by the governor are governed by section 15.0575. The council shall elect a chair and a secretary from among its members. The council expires on June 30, ~~1993~~ 1998.

Sec. 10. Minnesota Statutes 1992, section 16B.32, subdivision 2, is amended to read:

Subd. 2. [ENERGY CONSERVATION GOALS; EFFICIENCY PROGRAM.] (a) The commissioner of administration in consultation with the department of public service, in cooperation with one or more public utilities or comprehensive energy services providers, may conduct a shared-savings program involving energy conservation expenditures of up to \$15,000,000 by July 1, 1996, on state-owned buildings. The public utility or energy services provider shall contract with appropriate state agencies to implement energy efficiency improvements in the selected buildings. A contract must require the public utility or energy services provider to include all energy efficiency improvements in selected buildings that are calculated to achieve a cost payback within ten years. The contract must require that the public utility or energy services provider be repaid solely from energy cost savings and only to the extent of energy cost savings. Repayments must be interest-free. The goal of the program in this paragraph is to demonstrate that through effective energy conservation the total energy consumption per square foot of state-owned and wholly state-leased buildings could be reduced by at least 25 percent, and climate control energy consumption per square foot could be reduced by at least 15 percent from consumption in the base year of 1990. All agencies participating in the program must report to the commissioner of administration their monthly energy usage, building schedules, inventory of energy-consuming equipment, and other information as needed by the commissioner to manage and evaluate the program.

(b) The commissioner may exclude from the program of paragraph (a) a building in which energy conservation measures are carried out. "Energy conservation measures" means measures that are applied to a state building that improve energy efficiency and have a simple return of investment in five ten years or within the remaining period of a lease, whichever time is shorter, and involves energy conservation, conservation facilities, renewable energy sources, improvements in operations and maintenance efficiencies, or retrofit activities.

(c) By January 1, 1993, the commissioner shall submit to the legislature a report that includes:

- (1) an energy use survey of new or added space state buildings occupy;
- (2) a plan for conserving energy without undertaking any physical alterations of the space;
- (3) recommendations for physical alterations that would enable the agency to conserve additional energy along with an estimate of the cost of the alterations; and
- (4) recommendations for additional legislation needed to achieve the goal along with an estimate of any costs associated with the recommended legislation.

Sec. 11. Minnesota Statutes 1992, section 16B.42, is amended to read:

16B.42 [INTERGOVERNMENTAL INFORMATION SYSTEMS ADVISORY COUNCIL.]

Subdivision 1. [COMPOSITION.] ~~The commissioner of administration shall appoint an intergovernmental information systems advisory council, to serve at the pleasure of the commissioner of administration, consisting of 25 members. Fourteen members shall be appointed or elected officials of local governments; seven shall be representatives of state agencies, and four shall be selected from the community at large. Further, the council shall be is composed of (1) two members from each of the following groups: counties outside of the seven county metropolitan area, cities of the second and third class outside the metropolitan area, cities of the second and third class within the metropolitan area, and cities of the fourth class; (2) one member from each of the following groups: the metropolitan council, an outstate regional body, counties within the metropolitan area, cities of the first class, school districts in the metropolitan area, and school districts outside the metropolitan area, and public libraries; (3) one member each from appointed by the state departments of administration, education, human services, revenue, and jobs and training, and the office of strategic and long-range planning and the legislative auditor; (4) one member from the office of the state auditor, appointed by the auditor; and (5) four members from the state community at large. To the extent permitted by available resources the commissioner shall furnish staff and other assistance as requested by the council the assistant commissioner of administration for the information policy office; (6) one member appointed by each of the following organizations: league of Minnesota cities, association of Minnesota counties, Minnesota association of township officers, and Minnesota association of school administrators; and (7) one member of the house of representatives appointed by the speaker, and one member of the senate appointed by the committee on rules and administration. The commissioner of administration shall appoint members under clauses (1) and (2). The terms, compensation, and removal of members of the advisory council shall be as provided in section 15.059, but the council does not expire until June 30, 1993.~~

Subd. 2. [DUTIES.] The council shall: assist the commissioner state and local agencies in developing and updating intergovernmental information systems, including data definitions, format, and retention standards; recommend to the commissioner policies and procedures governing the collection, security, and confidentiality of data; facilitate participation of users during the development of major revisions of intergovernmental information systems; review intergovernmental information and computer systems involving intergovernmental funding; encourage cooperative efforts among state and local governments in developing intergovernmental information systems to meet individual and collective, operational, and external needs; bring about the necessary degree of standardization consistent with local prerogatives; yield fiscal and other information required by state and federal laws and regulations in readily usable form; present local government concerns to state government and state government concerns to local government with respect to intergovernmental information systems; develop and recommend standards and policies for intergovernmental information systems to the information policy office; foster the efficient use of available federal, state, local, and private resources for the development of intergovernmental systems; keep local governments government agencies abreast of the state of the art in information systems; and; prepare guidelines for intergovernmental systems; and assist the commissioner of administration in the development of cooperative contracts for the purchase of information system equipment and software.

Subd. 3. [OTHER DUTIES.] The intergovernmental informations systems advisory council shall (1) recommend to the commissioners of state departments, the legislative auditor, and the state auditor a method for the expeditious gathering and reporting of information and data between agencies and units of local government in accordance with cooperatively developed standards; (2) elect an executive committee, not to exceed seven members from its membership which shall include the assistant commissioner of the information policy office; (3) develop an annual plan, to include administration and evaluation of grants, in compliance with applicable rules; (4) provide technical information systems assistance or guidance to local governments for development, implementation, and modification of automated systems, including formation of consortiums for those systems; and (5) appoint committees and task forces, which may include persons other than council members, to assist the council in carrying out its duties.

Subd. 4. [FUNDING.] Appropriations and other funds made available to the council for staff, operational expenses, projects, and grants must be administered through the department of administration are under the control of the council. The council may contract with the department of administration for staff services and administrative support. The council shall reimburse the department for these services. The council may request assistance from other state and local agencies in carrying out its duties. Fees charged to local units of government for the administrative costs of the council and revenues derived from royalties, reimbursements, or other fees from software programs, systems, or technical services arising out of activities funded by current or prior state appropriations must be credited to the general fund. The unencumbered balance of an appropriation ~~for grants~~ in the first year of a biennium does not cancel but is available for the second year of the biennium.

Sec. 12. Minnesota Statutes 1992, section 16B.465, subdivision 6, is amended to read:

Subd. 6. [REVOLVING FUND.] ~~The statewide telecommunications access and routing system shall operate as part of the intertechnologies revolving fund. Money appropriated to the account for the statewide telecommunications access routing system and fees for communications telecommunications services provided by the statewide telecommunications access and routing system must be deposited in the an account in the intertechnologies revolving fund. Money in the account is appropriated annually to the commissioner to operate the statewide telecommunications access and routing system services.~~

Sec. 13. Minnesota Statutes 1992, section 16B.48, subdivision 2, is amended to read:

Subd. 2. [PURPOSE OF FUNDS.] Money in the state treasury credited to the general services revolving fund and money that is deposited in the fund is appropriated annually to the commissioner for the following purposes:

- (1) to operate a central store and equipment service;
- (2) to operate a central duplication and printing service;
- (3) ~~to purchase postage and related items and to refund postage deposits as necessary to operate the central mailing service, including purchasing postage and related items and refunding postage deposits;~~
- (4) to operate a documents service as prescribed by section 16B.51;

~~(5) provide advice and other services to political subdivisions for the management of their telecommunication systems;~~

(6) to provide services for the maintenance, operation, and upkeep of buildings and grounds managed by the commissioner of administration;

~~(7)~~ (6) to provide analytical, statistical, and organizational development services to state agencies, local units of government, metropolitan and regional agencies, and school districts;

(8) ~~(7)~~ to provide capitol security services through the department of public safety;

(9) ~~(8)~~ to operate a records center and provide micrographics products and services; and

(10) ~~(9)~~ to perform services for any other agency. Money may be expended for this purpose only when directed by the governor. The agency receiving the services shall reimburse the fund for their cost, and the commissioner shall make the appropriate transfers when requested. The term "services" as used in this clause means compensation paid officers and employees of the state government; supplies, materials, equipment, and other articles and things used by or furnished to an agency; and utility services and other services for the maintenance, operation, and upkeep of buildings and offices of the state government.

Sec. 14. Minnesota Statutes 1992, section 16B.48, subdivision 3, is amended to read:

Subd. 3. [INTERTECHNOLOGIES REVOLVING FUND.] Money in the intertechnologies revolving fund is appropriated annually to the commissioner to operate information, ~~records,~~ and telecommunications services, including management, consultation, and design services.

Sec. 15. [16B.482] [REIMBURSEMENT FOR MATERIALS AND SERVICES.]

The commissioner of administration may provide materials and services under chapter 16B to state legislative and judicial branch agencies and to political subdivisions. Legislative and judicial branch agencies and political subdivisions purchasing materials and services from the commissioner of administration shall reimburse the general services, intertechnologies, and cooperative purchasing revolving funds for costs.

Sec. 16. Minnesota Statutes 1992, section 16B.49, is amended to read:

16B.49 [CENTRAL MAILING SYSTEM.]

The commissioner shall maintain and operate for agencies a central mailing system. Official mail of an agency occupying quarters ~~either in the capitol or in adjoining state buildings~~ within the boundaries of the city of St. Paul must be delivered unstamped to the central mailing station. Account must be kept of the postage required on that mail, which is then a proper charge against the agency delivering the mail. To provide funds for the payment of postage, each agency shall make advance payments to the commissioner sufficient to cover its postage obligations for at least 60 days.

Sec. 17. Minnesota Statutes 1992, section 16B.51, subdivision 2, is amended to read:

Subd. 2. [PRESCRIBE FEES.] The commissioner may prescribe fees to be charged for services rendered by the state or an agency in furnishing to those who request them certified copies of records or other documents, certifying that records or documents do not exist and furnishing other reports, publications, data, or related material which is requested. The fees, unless otherwise prescribed by law, may be fixed at the market rate. The commissioner of finance is authorized to approve the prescribed rates for the purpose of assuring that they, in total, will result in receipts greater than costs in the fund. Fees prescribed under this subdivision are deposited in the state treasury by the collecting agency and credited to the general services revolving fund. Nothing in this subdivision permits the commissioner of administration to furnish any service which is now prohibited or unauthorized by law.

Sec. 18. Minnesota Statutes 1992, section 16B.51, subdivision 3, is amended to read:

Subd. 3. [SALE OF PUBLICATIONS.] The commissioner may sell official reports, documents, data, and ~~other~~ publications of all kinds, may delegate their sale to state agencies, and may establish facilities for their sale within the department of administration and elsewhere within the state service. The commissioner may remit a portion of the price of any publication or data to the agency producing the publication or data. Money that is remitted to an agency is annually appropriated to that agency to discharge the costs of preparing the publications or data.

Sec. 19. [16B.581] [DISTINCTIVE TAX-EXEMPT LICENSE PLATES.]

Vehicles owned or leased by the state of Minnesota shall display distinctive tax-exempt license plates unless otherwise exempted under section 168.012. The commissioner of administration shall design these distinctive plates subject to the approval of the registrar. An administrative fee of \$20 and a license plate fee of \$10 for two plates per vehicle or a license plate fee of \$5 for one plate per trailer is paid at the time of registration. The license plate registration shall be valid for the life of the vehicle or until the vehicle is no longer owned or leased by the state of Minnesota.

When the state of Minnesota applies for distinctive tax-exempt plates on vehicles previously owned by local units of government, it shall pay an administrative fee of \$10 and a plate fee that covers the cost of replacement.

Sec. 20. Minnesota Statutes 1992, section 16B.85, subdivision 1, is amended to read:

Subdivision 1. [ALTERNATIVES TO CONVENTIONAL INSURANCE.] The commissioner may implement programs of insurance or alternatives to the purchase of conventional insurance for areas of risk not subject to collective bargaining agreements, plans established under section 43A.18, or programs established under sections 176.540 to 176.611, except for the department of administration. The mechanism for implementing possible alternatives to conventional insurance is the risk management fund created in subdivision 2.

Sec. 21. Minnesota Statutes 1992, section 94.10, subdivision 1, is amended to read:

Subdivision 1. Before offering any surplus state owned lands for sale, the commissioner of administration may survey such the lands, and if the value thereof is estimated to be \$20,000 or less, may have such lands appraised. If the land is located in the seven-county metropolitan area, the commissioner shall have the lands appraised if the estimated value is in excess of \$20,000 \$40,000. If the land is located outside of the seven-county metropolitan area, the commissioner shall have the land appraised if the estimated value is in excess of \$20,000. The appraisal shall must be made by not less than three appraisers, at least two of whom shall be residents of the county in which the lands are situated an appraiser selected by the commissioner. Each appraiser shall before entering upon the duties of the office take and subscribe an oath that the appraiser will faithfully and impartially discharge the duties as appraiser according to the best of the appraiser's ability and that the appraiser is not interested directly or indirectly in any of the lands to be appraised or the timber or improvements thereon on the land or in the purchase thereof of the land and has entered into no agreement or combination to purchase the same or any part thereof, which oath shall all or part of the land. A copy of the oath must be attached to the report of such the appraisal. Before offering such surplus state owned lands for public sale, such the lands shall must first be offered to the city, county, town, school district, or other public body corporate or politic in which the lands are situated for public purposes, and they may be sold for such public purposes for not less than the appraised value thereof. To determine whether a public body desires to purchase the surplus land, the commissioner of administration shall give a written notice to the governing body of each political subdivision whose jurisdictional boundaries include or are adjacent to the surplus land. If a public body desires to purchase the surplus land, it shall submit a written offer to the commissioner not later than two weeks after receipt of notice, setting forth in detail its reasons for desiring to acquire and its intended use of the land. In the event that more than one public body tenders an offer, the commissioner shall determine which party shall is to receive the property, and shall submit written findings regarding the decision. If lands are offered for sale for such public purposes, and if a public body notifies the commissioner of administration of its desire to acquire such the lands, the public body may have not to exceed not more than two years from the date of the accepted offer to commence payment for the lands in the manner provided by law.

Sec. 22. Minnesota Statutes 1992, section 343.01, is amended by adding a subdivision to read:

Subd. 1a. [MINNESOTA HUMANE SOCIETY; CONTINUATION CONFIRMED.] The Minnesota humane society, also known as the Minnesota society for the prevention of cruelty, is confirmed and continued as a nonprofit organization under chapter 317A.

Sec. 23. Minnesota Statutes 1992, section 343.01, is amended by adding a subdivision to read:

Subd. 1b. [INDEPENDENT ORGANIZATIONS; POWERS OF THE FEDERATED HUMANE SOCIETIES.] (a) The Minnesota humane society, also known as the Minnesota society for the prevention of cruelty, and the Minnesota federated humane societies are not affiliated with each other or with the state of Minnesota.

(b) The Minnesota federated humane societies have the powers given to it under this chapter.

Sec. 24. Minnesota Statutes 1992, section 343.01, subdivision 2, is amended to read:

Subd. 2. [~~NAME OF FEDERATION UNAUTHORIZED USE OF NAMES PROHIBITED.~~] It shall be unlawful for any organization, association, firm or corporation not ~~authorized by~~ named in this chapter to refer to itself as or in any way to use the names Minnesota federated humane societies, Minnesota society for the prevention of cruelty, the Minnesota humane society, or any combination of words or phrases using the above names which would imply that it represents, acts in behalf or is a branch of the society or the federation.

Sec. 25. Minnesota Statutes 1992, section 343.01, subdivision 3, is amended to read:

Subd. 3. [POWERS AND DUTIES.] The federation and the society must each be governed by a board of directors designated in accordance with chapter 317A. The powers, duties, and organization of the federation and the society and other matters for the conduct of the business of the federation and the society shall be as provided in chapter 317A and in the ~~federation's~~ articles of incorporation and bylaws of each organization.

Sec. 26. Minnesota Statutes 1992, section 403.11, subdivision 1, is amended to read:

Subdivision 1. [EMERGENCY TELEPHONE SERVICE FEE.] (a) Each customer of a local exchange company is assessed a fee to cover the costs of ongoing maintenance and related improvements for trunking and central office switching equipment for minimum 911 emergency telephone service, plus administrative and staffing costs of the department of administration related to managing the 911 emergency telephone service program. Recurring charges by a public utility providing telephone service for updating the information required by section 403.07, subdivision 3, must be paid by the commissioner ~~for information of administration~~ if the utility is included in an approved 911 plan and the charges have been certified and approved under subdivision 3. Money remaining in the 911 emergency telephone service account after all other obligations are paid shall not cancel and shall be carried forward to subsequent years and appropriated to the commissioner of administration to provide financial assistance to counties for the improvement of local emergency telephone services. The improvements may include providing access to minimum 911 service for telephone service subscribers currently without access and upgrading existing 911 service to include automatic number identification, local location identification, automatic location identification, and other improvements specified in revised county 911 plans approved by the department.

(b) The fee may not be less than eight cents nor more than 30 cents a month for each customer access line, including trunk equivalents as designated by the public utilities commission for access charge purposes. The fee must be the same for all customers.

(c) The fee must be collected by each utility providing local exchange telephone service. Fees are payable to and must be submitted to the commissioner of administration monthly before the 25th of each month following the month of collection, except that fees may be submitted quarterly if less than \$250 a month is due, or annually if less than \$25 a month is due. Receipts must be deposited in the state treasury and credited to a 911 emergency telephone service account in the special revenue fund. The money in the account may only be used for 911 telephone services as provided in paragraph (a).

(d) The commissioner of administration, with the approval of the commissioner of finance, shall establish the amount of the fee within the limits specified and inform the utilities of the amount to be collected. Utilities must be given a minimum of 45 days notice of fee changes.

Sec. 27. Laws 1979, chapter 333, section 18, is amended to read:

Sec. 18. [ADMINISTRATION]

General Operations and Management	15,136,500	15,595,900
Approved Complement - 956		
General - 485		
Special - 11		
Federal - 7		
Revolving - 453		

The amounts that may be expended from this appropriation for each program are as follows:

Management Services

\$ 3,311,200 \$ 3,493,300

The commissioner of administration shall transfer two positions from management analysis to records management to allow the department to meet its responsibilities for records management. These positions may revert to management analysis when they are no longer needed to meet those responsibilities.

Real Property Management

\$ 7,804,200 \$ 7,780,900

~~The commissioner of administration shall charge the department of transportation and the iron range resources and rehabilitation board for engineering services performed on behalf of these agencies.~~

The unencumbered balance in appropriation accounts 16078:14-11 and 16072:14-11 shall be cancelled on July 1, 1979.

State Agency Services

\$ 1,224,400 \$ 1,222,000

For 1979 - \$169,200

\$169,200 is available as an advance from the general fund to the surplus property revolving fund. Of this amount, \$67,700 is immediately available for payment of outstanding obligations, \$40,000 is immediately available as working capital, and \$61,500 is available for the reduction of obligations incurred between March 1, 1979, and February 29, 1980.

The commissioner of administration shall provide a monthly report to the commissioner of finance consisting of: an operations statement, a balance sheet, an analysis of changes in retained earnings, and a source and use of funds statement. The commissioner of finance is responsible for approving the allotment of the \$61,500 portion of the advance and shall give his approval when potential deficiencies are forecast. If it appears that the \$61,500 portion of the advance will be exhausted prior to January 15, 1980, the commissioner of finance shall promptly notify the governor and the legislative advisory commission of the need for an additional advance.

The commissioner of administration shall by January 15, 1980, provide copies of all monthly reports through the period ending December 31, 1979, to the senate finance committee and the house appropriations committee. The commissioner of finance shall by January 15, 1980, recommend the continuance or discontinuance of the federal surplus property activity to the committee on finance in the senate and the committee on appropriations of the house of representatives.

The advance of \$169,200 shall be returned in full or in increments to the general fund from the surplus property revolving fund when the commissioner of finance determines that retained earnings are in excess of the working capital requirements of the surplus property revolving fund. In the event the surplus property revolving fund is discontinued, any portion of the advance of \$169,200 that has not been returned to the general fund shall, immediately upon liquidation of assets, be paid to the general fund.

Public Services

\$ 1,748,900 \$ 2,053,400

\$37,000 the first year and \$40,700 the second year is for the state contribution to the National Conference of State Legislatures.

\$43,900 each year is for the state contribution to the Council of State Governments.

\$6,500 each year is for the expenses of the Interstate Cooperation Commission.

\$5,000 each year is for the Minnesota state employees band.

General Support

\$ 1,047,800 \$ 1,046,300

The commissioner of administration with the approval of the commissioner of finance may transfer unencumbered balances not specified for a particular purpose among the above programs. Transfers shall be reported forthwith to the committee on finance of the senate and the committee on appropriations of the house of representatives.

Sec. 28. Laws 1991, chapter 345, article 1, section 17, subdivision 4, as amended by Laws 1992, chapter 514, section 20, is amended to read:

Subd. 4. Property Management

23,387,000

8,349,000

\$175,000 the first year and \$175,000 the second year from the program's total appropriation are for capitol area repairs and replacements. Any unencumbered balance remaining in the first year does not cancel and is available for the second year.

\$3,825,000 the first year and \$3,884,000 the second year are for office space costs of the legislature and veterans organizations, for ceremonial space, and for statutorily free space.

The department of administration shall discontinue food service management in the state office building for the biennium ending June 30, 1993. Food service shall be managed by the house rules committee as a pilot project for the biennium.

\$50,000 the first year is for the commissioner of administration to study the potential uses for the Waseca campus. The commissioner shall appoint an advisory committee to assist with the study. The commissioner shall report the findings and recommendations from the study to the board of regents, and the education, appropriations, and finance committees of the legislature by January 15, 1992. The appropriation is available if matched by \$1 of nonstate money for each \$10 of this appropriation. In addition, the board of regents of the University of Minnesota is requested to provide additional funding up to \$50,000 to assist in the cost of the study.

The department of administration in consultation with the capitol area architectural and planning board shall study the historic renovation and potential reuse of the Dahl house and report to the senate finance and house appropriations committees by February 1, 1992.

By January 31, 1993, The department of administration shall relocate the state printing operation and related operations from the Ford building to a more suitable location, preferably outside the capitol complex and shall relocate and consolidate offices of the attorney general in the Ford building when the Ford building shall be is remodeled as office space or when a replacement building is constructed on the site.

By December 31, 1992, the department of administration shall relocate the office of the state auditor to a location within the capitol complex.

\$350,000 the first year is for developing a framework for an integrated infrastructure management system including the establishment of a data base of building classification standards. The commissioner of administration shall report by January 1, 1992, on the time and cost of continuing the program for fiscal year 1993.

\$961,000 the first year is to improve security at state parking ramps and lots, to be available upon final enactment.

\$13,781,000 is for the costs relating to agency relocation, consolidation, and colocation, to be available upon final enactment.

Sec. 29. [REPEALER.]

Minnesota Statutes 1992, sections 3.3026; 16B.41, subdivision 4; 16B.56, subdivision 4; and Laws 1987, chapter 394, section 13, are repealed.

Sec. 30. [EFFECTIVE DATE.]

Sections 3, 4 to 6, and 12 to 15 are effective on July 1, 1993. Sections 1 and 2, 7 to 11, and 16 to 29 are effective the day following final enactment."

Delete the title and insert:

"A bill for an act relating to state government; modifying provisions relating to the department of administration; amending Minnesota Statutes 1992, sections 13B.04; 15.061; 16B.06, subdivision 2; 16B.17; 16B.19, subdivisions 2 and 10; 16B.24, subdivision 6, and by adding a subdivision; 16B.27, subdivision 3; 16B.32, subdivision 2; 16B.42; 16B.465, subdivision 6; 16B.48, subdivisions 2 and 3; 16B.49; 16B.51, subdivisions 2 and 3; 16B.85, subdivision 1; 94.10, subdivision 1; 343.01, subdivisions 2, 3, and by adding subdivisions; and 403.11, subdivision 1; Laws 1979, chapter 333, section 18; and Laws 1991, chapter 345, article 1, section 17, subdivision 4, as amended; proposing coding for new law in Minnesota Statutes, chapter 16B; repealing Minnesota Statutes 1992, sections 3.3026; 16B.41, subdivision 4; 16B.56, subdivision 4; Laws 1987, chapter 394, section 13."

With the recommendation that when so amended the bill pass.

The report was adopted.

Skoglund from the Committee on Judiciary to which was referred:

H. F. No. 1042, A bill for an act relating to human services; modifying provisions dealing with the administration, computation, and enforcement of child support; imposing penalties; amending Minnesota Statutes 1992, sections 136A.121, subdivision 2; 214.101, subdivision 1; 256.87, subdivisions 1, 1a, 3, and 5; 256.978; 256.979, by adding subdivisions; 256.9791, subdivisions 3 and 4; 257.66, subdivision 3; 257.67, subdivision 3; 257.69, subdivision 1; 518.14; 518.171, subdivisions 1, 2, 3, 4, 6, 7, 8, 10, and by adding a subdivision; 518.24; 518.54, subdivision 4; 518.551, subdivisions 1, 5, 5b, 7, 10, and 12; 518.57, subdivision 1, and by adding a subdivision; 518.611, subdivisions 1 and 4; 518.613, subdivision 1; 518.64, subdivisions 1, 2, 5, and 6; 518.645; 548.09, subdivision 1; 548.091, subdivision 3a; 588.20; and 609.375, subdivisions 1 and 2; proposing coding for new law in Minnesota Statutes, chapters 256; and 518; repealing Minnesota Statutes 1992, sections 256.979; and 609.37.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 1992, section 136A.121, subdivision 2, is amended to read:

Subd. 2. [ELIGIBILITY FOR GRANTS.] An applicant is eligible to be considered for a grant, regardless of the applicant's sex, creed, race, color, national origin, or ancestry, under sections 136A.095 to 136A.131 if the board finds that the applicant:

- (1) is a resident of the state of Minnesota;
- (2) is a graduate of a secondary school or its equivalent, or is 17 years of age or over, and has met all requirements for admission as a student to an eligible college or technical college of choice as defined in sections 136A.095 to 136A.131;
- (3) has met the financial need criteria established in Minnesota Rules;
- (4) is not in default, as defined by the board, of any federal or state student educational loan; and
- (5) is not more than 30 days in arrears for any child support payments owed to a public agency responsible for child support enforcement or, if the applicant is more than 30 days in arrears, is complying with a written payment plan agreement or order for arrearages. An agreement must provide for a repayment of arrearages at no less than 20 percent per month of the amount of the monthly child support obligation or no less than \$30 per month if there is no current monthly child support obligation. Compliance means that payments are made by the payment date.

The director and the commissioner of human services shall develop procedures to implement clause (5).

Sec. 2. Minnesota Statutes 1992, section 214.101, subdivision 1, is amended to read:

Subdivision 1. [COURT ORDER; HEARING ON SUSPENSION.] (a) For purposes of this section, "licensing board" means a licensing board or other state agency that issues an occupational license.

(b) If a licensing board receives an order from a court under section 518.551, subdivision 12, dealing with suspension of a license of a person found by the court to be in arrears in child support payments, the board shall, within 30 days of receipt of the court order, provide notice to the licensee and hold a hearing. If the board finds that the person is licensed by the board and evidence of full payment of arrearages found to be due by the court is not presented at the hearing, the board shall suspend the license unless it determines that probation is appropriate under subdivision 2. The only issues to be determined by the board are whether the person named in the court order is a licensee, whether the arrearages have been paid, and whether suspension or probation is appropriate. The board may not consider evidence with respect to the appropriateness of the court order or the ability of the person to comply with the order. The board may not lift the suspension until the licensee files with the board proof showing that the licensee is current in child support payments:

Sec. 3. Minnesota Statutes 1992, section 256.87, subdivision 1, is amended to read:

Subdivision 1. [ACTIONS AGAINST PARENTS FOR ASSISTANCE FURNISHED.] A parent of a child is liable for the amount of assistance furnished under sections 256.72 to 256.87 or under Title IV-E of the Social Security Act or medical assistance under chapter 256, 256B, or 256D to and for the benefit of the child, including any assistance furnished for the benefit of the caretaker of the child, which the parent has had the ability to pay. Ability to pay must be determined according to chapter 518. The parent's liability is limited to ~~the amount of assistance furnished during~~ the two years immediately preceding the commencement of the action, except that where child support has been previously ordered, the state or county agency providing the assistance, as assignee of the obligee, shall be entitled to judgments for child support payments accruing within ten years preceding the date of the commencement of the action up to the full amount of assistance furnished. The action may be ordered by the state agency or county agency and shall be brought in the name of the county by the county attorney of the county in which the assistance was granted, or by the state agency against the parent for the recovery of the amount of assistance granted, together with the costs and disbursements of the action.

Sec. 4. Minnesota Statutes 1992, section 256.87, subdivision 1a, is amended to read:

Subd. 1a. [CONTINUING SUPPORT CONTRIBUTIONS.] In addition to granting the county or state agency a money judgment, the court may, upon a motion or order to show cause, order continuing support contributions by a parent found able to reimburse the county or state agency. The order shall be effective for the period of time during which the recipient receives public assistance from any county or state agency and ~~for five months~~ thereafter. The order shall require support according to chapter 518. An order for continuing contributions is reinstated without further hearing upon notice to the parent by any county or state agency that assistance is again being provided for the child of the parent under sections 256.72 to 256.87 or under Title IV-E of the Social Security Act or medical assistance under chapter 256, 256B, or 256D. The notice shall be in writing and shall indicate that the parent may request a hearing for modification of the amount of support or maintenance.

Sec. 5. Minnesota Statutes 1992, section 256.87, subdivision 3, is amended to read:

Subd. 3. [CONTINUING CONTRIBUTIONS TO FORMER RECIPIENT.] The order for continuing support contributions shall remain in effect following the ~~five month~~ period after public assistance granted under sections 256.72 to 256.87 is terminated ~~if~~:

~~(a) the former recipient files an affidavit with the court within five months of the termination of assistance requesting that the support order remain in effect;~~

~~(b) the public authority serves written notice of the filing by mail on the parent responsible for making the support payments at that parent's last known address and notice that the parent may move the court under section 518.64 to modify the order respecting the amount of support or maintenance; and~~

~~(c) unless the former recipient authorizes use of the public authority's collection services files an affidavit with the court requesting termination of the order.~~

Sec. 6. Minnesota Statutes 1992, section 256.87, subdivision 5, is amended to read:

Subd. 5. [CHILD NOT RECEIVING ASSISTANCE.] A parent person or entity having physical and legal custody of a dependent child not receiving assistance under sections 256.72 to 256.87 has a cause of action for child support against the child's absent parent parents. Upon an order to show cause and a motion served on the absent parent, the court shall order child support payments from the absent parent under chapter 518.

Sec. 7. Minnesota Statutes 1992, section 256.978, is amended to read:

256.978 [LOCATION OF PARENTS DESERTING THEIR CHILDREN, ACCESS TO RECORDS.]

Subdivision 1. [REQUEST FOR INFORMATION.] The commissioner of human services, in order to ~~carry out the child support enforcement program and to assist in the location of parents who have, or appear to have, deserted their children~~ locate a person to establish paternity, child support, or to enforce a child support obligation in arrears, may request information reasonably necessary to the inquiry from the records of all departments, boards, bureaus, or other agencies of this state, which shall, notwithstanding the provisions of section 268.12, subdivision 12, or any other law to the contrary, provide the information necessary for this purpose. Employers ~~and~~ utility companies, insurance companies, financial institutions, and labor associations doing business in this state shall provide information reasonably necessary to the commissioner's inquiry upon written request by an agency responsible for child support enforcement regarding individuals owing or allegedly owing a duty to support. ~~A request for this information may be made to an employer when there is reasonable cause to believe that the subject of the inquiry is or was employed by the employer where the request is made. The request must include a statement that reasonable cause exists. Information to be released by utility companies is restricted to place of residence. Information to be released by employers is restricted to place of residence, employment status, and wage information. Information relative to the identity, whereabouts, employment, income, and property of a person owing or alleged to be owing an obligation of support may be requested and used or transmitted by the commissioner pursuant to the authority conferred by this section. The commissioner of human services may make such information be made available only to public officials and agencies of this state and its political subdivisions and other states of the union and their political subdivisions who are seeking to enforce the support liability of parents or to locate parents who have, or appear to have, deserted their children. Any person who, pursuant to this section, obtains information from the department of revenue the confidentiality of which is protected by law shall not divulge the information except to the extent necessary for the administration of the~~ Information obtained under this section may not be released except to the extent necessary for the administration of the child support enforcement program or when otherwise authorized by law.

Subd. 2. [ACCESS TO INFORMATION.] (a) A written request for information by the public authority responsible for child support may be made to:

(1) employers when there is reasonable cause to believe that the subject of the inquiry is or was an employee of the employer. Information to be released by employers is limited to place of residence, employment status, wage information, and social security number;

(2) utility companies when there is reasonable cause to believe that the subject of the inquiry is or was a retail customer of the utility company. Customer information to be released by utility companies is limited to place of residence, home telephone, work telephone, source of income, employer and place of employment, and social security number;

(3) insurance companies when there is an arrearage of child support and there is reasonable cause to believe that the subject of the inquiry is or was receiving funds either in the form of a lump sum or periodic payments. Information to be released by insurance companies is limited to place of residence, home telephone, work telephone, employer, and amounts and type of payments made to the subject of the inquiry;

(4) labor organizations when there is reasonable cause to believe that the subject of the inquiry is or was a member of the labor association. Information to be released by labor associations is limited to place of residence, home telephone, work telephone, and current and past employment information; and

(5) financial institutions when there is an arrearage of child support and there is reasonable cause to believe that the subject of the inquiry has or has had accounts, stocks, loans, certificates of deposits, treasury bills, life insurance policies, or other forms of financial dealings with the institution. Information to be released by the financial institution is limited to place of residence, home telephone, work telephone, identifying information on the type of financial relationships, current value of financial relationships, and current indebtedness of subject with the financial institution.

(b) For purposes of this subdivision, utility companies include companies that provide electrical, telephone, natural gas, propane gas, oil, coal, or cable television services to retail customers. The term financial institution includes banks, savings and loans, credit unions, brokerage firms, mortgage companies, and insurance companies.

Subd. 3. [IMMUNITY.] A person who releases information to the public authority as authorized under this section is immune from liability for release of the information.

Sec. 8. Minnesota Statutes 1992, section 256.979, is amended by adding a subdivision to read:

Subd. 5. [PATERNITY ESTABLISHMENT AND CHILD SUPPORT ORDER MODIFICATION BONUS INCENTIVES.] (a) A bonus incentive program is created to increase the number of paternity establishments and modifications of child support orders done by county child support enforcement agencies.

(b) A bonus must be awarded to a county child support agency for each child for which the agency completes a paternity establishment through judicial, administrative, or expedited processes and for each instance in which the agency reviews a case for a modification of the child support order.

(c) The rate of bonus incentive is \$100 for each paternity establishment and \$50 for each review for modification of a child support order.

Sec. 9. Minnesota Statutes 1992, section 256.979, is amended by adding a subdivision to read:

Subd. 6. [CLAIMS FOR BONUS INCENTIVE.] (a) The commissioner of human services and the county agency shall develop procedures for the claims process and criteria using automated systems where possible.

(b) Only one county agency may receive a bonus per paternity establishment or child support order modification. The county agency making the initial preparations for the case resulting in the establishment of paternity or modification of an order is the county agency entitled to claim the bonus incentive, even if the case is transferred to another county agency prior to the time the order is established or modified.

(c) Disputed claims must be submitted to the commissioner of human services and the commissioner's decision is final.

(d) For purposes of this section, "case" means a family unit for whom the county agency is providing child support enforcement services.

Sec. 10. Minnesota Statutes 1992, section 256.979, is amended by adding a subdivision to read:

Subd. 7. [DISTRIBUTION.] (a) Bonus incentives must be issued to the county agency quarterly, within 45 days after the last day of each quarter for which a bonus incentive is being claimed, and must be paid in the order in which claims are received.

(b) Bonus incentive funds under this section must be reinvested in the county child support enforcement program and a county may not reduce funding of the child support enforcement program by the amount of the bonus earned.

(c) The county agency shall repay any bonus erroneously issued.

(d) A county agency shall maintain a record of bonus incentives claimed and received for each quarter.

Sec. 11. Minnesota Statutes 1992, section 256.9791, subdivision 3, is amended to read:

Subd. 3. [ELIGIBILITY; REPORTING REQUIREMENTS.] (a) In order for a county to be eligible to claim a bonus incentive payment, the county agency must ~~report to the commissioner, no later than August 1 of each fiscal year, provide the required information for each public assistance case no later than June 30 of each year to determine eligibility. The public authority shall use the information to establish for each county the number of cases as of June 30 of the preceding fiscal year in which (1) the court has established an obligation for coverage by the obligor, and (2) coverage was in effect as of June 30. The ratio resulting when the number of cases reported under (2) is divided by the number of cases reported under (1) shall be used to determine the amount of the bonus incentive according to subdivision 4.~~

(b) A county that fails to ~~submit~~ provide the required information by ~~August 1~~ June 30 of each fiscal year is not eligible for any bonus payments under this section for that fiscal year.

Sec. 12. Minnesota Statutes 1992, section 256.9791, subdivision 4, is amended to read:

Subd. 4. [RATE OF BONUS INCENTIVE.] The rate of the bonus incentive shall be determined according to ~~paragraphs paragraph (a) to (e).~~

(a) When a county agency has identified or enforced coverage in ~~up to and including 50 percent of its cases, the county shall receive \$15~~ \$50 for each additional person for whom coverage is identified or enforced.

(b) ~~When a county agency has identified or enforced coverage in more than 50 percent but less than 80 percent of its cases, the county shall receive \$20 for each person for whom coverage is identified or enforced.~~

(c) ~~When a county agency has identified or enforced coverage in 80 percent or more of its cases, the county shall receive \$25 for each person for whom coverage is identified or enforced.~~

(d) Bonus payments according to ~~paragraphs paragraph (a) to (c)~~ are limited to one bonus for each covered person each time the county agency identifies or enforces previously unidentified health insurance coverage and apply only to coverage identified or enforced after July 1, 1990.

Sec. 13. [256.9792] [ARREARAGE COLLECTION PROJECTS.]

Subdivision 1. [ARREARAGE COLLECTIONS.] Two arrearage collection projects are created to increase the revenue to the state and counties, reduce AFDC expenditures for former public assistance cases, and increase payments of arrearages to persons who are not receiving public assistance by submitting cases for arrearage collection to the department of revenue and private collection agencies.

Subd. 2. [DEFINITIONS.] (a) The definitions in this subdivision apply to this section.

(b) "Public assistance arrearage only case" means a case where no current support is due and the arrearages are assigned to the public agency under section 256.74, subdivision 5.

(c) "Public authority" means the public authority responsible for child support enforcement.

(d) "Nonpublic assistance arrearage case" means a support case where arrearages have occurred that have not been assigned under section 256.74, subdivision 5.

Subd. 3. [AGENCY PARTICIPATION.] (a) The collection remedy under this section is in addition to and not in substitution for any other remedy available by law to the public authority. The public authority remains responsible for the case even after collection efforts are transferred to the department of revenue or a private agency.

(b) The department of revenue may not claim collections made on a case submitted by the public authority for a state tax offset under chapter 270A as a collection for the purposes of this project.

Subd. 4. [ELIGIBLE CASES.] For public assistance arrearage only cases or nonpublic assistance arrearage cases to be eligible for the collection projects, the criteria in paragraphs (a) to (f) must be met.

(a) Notice must be sent to the debtor, as defined in section 270A.03, subdivision 4, at the debtor's last known address at least 30 days before the date the collections effort is transferred. The notice must inform the debtor that the department of revenue or a private collections agency will use enforcement and collections remedies and may charge a fee of up to 30 percent of the arrearages. The notice must advise the debtor of the right to contest the debt on grounds limited to mistakes of fact. The debtor may contest the debt by submitting a written request for review to the public authority within 21 days of the date of the notice.

(b) The arrearages owed must be based on a court or administrative order.

(c) The arrearages to be collected must be at least \$100.

(d) The public assistance arrearages must be at least 90 days past due and have had no collection in the 90 days before submission, except for federal and state offset collections.

(e) For nonpublic assistance cases, the arrearages must be a docketed judgment under section 548.091.

(f) A public assistance arrearage only case meeting the criteria under this subdivision from a county participating in the collection projects must be submitted for collection.

Subd. 5. [COUNTY PARTICIPATION.] (a) After requesting counties to volunteer for the projects, the commissioner of human services may designate counties to participate in the projects, if needed.

(b) The commissioner of human services shall designate counties that will submit cases to the department of revenue and counties that will submit cases to private collection agencies.

Subd. 6. [FEES.] A collection fee set by the commissioner of human services and the commissioner of revenue not to exceed 30 percent must be charged to the person obligated to pay the arrearages. The collection fee is in addition to the amount owed, and must be retained by the commissioner of revenue to cover the costs of administering the program or by the private collection agency from the proceeds of the collection.

Subd. 7. [CONTRACTS.] (a) The commissioner of human services may contract with the commissioner of revenue or private agencies to implement the projects, charge fees, and exchange necessary information.

(b) The commissioner of human services may provide an advance payment to the commissioner of revenue for collection services to be repaid to the department of human services out of subsequent collections fees.

(c) Summary reports of collections, fees, and other costs charged must be submitted monthly to the state office of child support enforcement.

Subd. 8. [REMEDIES.] The commissioner of revenue may use the tax collection remedies in sections 270.06, clause (7), 270.69 to 270.72, and 290.92, subdivision 23, to collect public assistance arrearages. The statute of limitations provisions in chapter 270 do not apply to public assistance arrearage only cases.

Subd. 9. [PRIORITY OF DEBTS.] For collections under this section, the priority of payment must first be applied to any delinquent tax obligations of the debtor that are owed to the department of revenue and then to public assistance arrearage only cases.

Subd. 10. [DATA.] (a) Notwithstanding section 13.46, the public authority and the commissioner of human services may furnish private data necessary for the collection of arrearages under this section to the commissioner of revenue and private agencies. Notwithstanding section 270B.02, subdivision 1, the commissioner of revenue may furnish private return data necessary for collection of child support arrearages under this section to the commissioner of human services and the public authority.

(b) The provisions of sections 13.03, subdivision 4, dealing with intergovernmental dissemination of data, and 13.05, subdivision 6, dealing with data under contracts, apply to data released under this section.

Sec. 14. Minnesota Statutes 1992, section 257.66, subdivision 3, is amended to read:

Subd. 3. [JUDGMENT; ORDER.] The judgment or order shall contain provisions concerning the duty of support, the custody of the child, the name of the child, visitation privileges with the child, the furnishing of bond or other security for the payment of the judgment, or any other matter in the best interest of the child. Custody and visitation and all subsequent motions related to them shall proceed and be determined under section 257.541. The remaining matters and all subsequent motions related to them shall proceed and be determined in accordance with chapter 518. The judgment or order may direct the appropriate party to pay all or a proportion of the reasonable expenses of the mother's pregnancy and confinement, after consideration of the relevant facts, including the relative financial means of the parents; the earning ability of each parent; and any health insurance policies held by either parent, or by a spouse or parent of the parent, which would provide benefits for the expenses incurred by the mother during her pregnancy and confinement. Remedies available for the collection and enforcement of child support apply to confinement costs and are considered additional child support.

Sec. 15. Minnesota Statutes 1992, section 257.67, subdivision 3, is amended to read:

Subd. 3. Willful failure to obey the judgment or order of the court is a civil contempt of the court. All remedies for the enforcement of judgments apply including those available under chapters 518 and 518C and sections 518C.01 to 518C.36 and 256.871 to 256.878.

Sec. 16. Minnesota Statutes 1992, section 518.14, is amended to read:

518.14 [COSTS AND DISBURSEMENTS AND ATTORNEY FEES.]

In a proceeding under this chapter, the court shall award attorney fees, costs, and disbursements in an amount necessary to enable a party to carry on or contest the proceeding, provided it finds:

(1) that the fees are necessary for the good-faith assertion of the party's rights in the proceeding and will not contribute unnecessarily to the length and expense of the proceeding;

(2) that the party from whom fees, costs, and disbursements are sought has the means to pay them; and

(3) that the party to whom fees, costs, and disbursements are awarded does not have the means to pay them.

Nothing in this section precludes the court from awarding, in its discretion, additional fees, costs, and disbursements against a party who unreasonably contributes to the length or expense of the proceeding. Fees, costs, and disbursements provided for in this section may be awarded at any point in the proceeding, including a modification proceeding under sections 518.18 and 518.64. The court may adjudge costs and disbursements against either party. The court may authorize the collection of money awarded by execution, or out of property sequestered, or in any other manner within the power of the court. An award of attorney's fees made by the court during the pendency of the proceeding or in the final judgment survives the proceeding and if not paid by the party directed to pay the same may be enforced as above provided or by a separate civil action brought in the attorney's own name. If the proceeding is dismissed or abandoned prior to determination and award of attorney's fees, the court may nevertheless award attorney's fees upon the attorney's motion. The award shall also survive the proceeding and may be enforced in the same manner as last above provided.

Sec. 17. Minnesota Statutes 1992, section 518.171, subdivision 1, is amended to read:

Subdivision 1. [ORDER.] (a) Unless the obligee has comparable or better group dependent health insurance coverage available at a more reasonable cost, the court shall order the obligor to name the minor child as beneficiary on any health and dental insurance plan that is comparable to or better than a number two qualified plan and available to the obligor on a group basis or through an employer or union. "Health insurance coverage" as used in this section does not include medical assistance provided under chapter 256, 256B, or 256D.

(b) If the court finds that dependent health or dental insurance is not available to the obligor or obligee on a group basis or through an employer or union, or that the group insurer is not accessible to the obligee, the court may require the obligor (1) to obtain other dependent health or dental insurance, or (2) to be liable for reasonable and necessary medical or dental expenses of the child, or (3) to pay no less than \$50 per month to be applied to the medical and dental expenses of the children or to the cost of health insurance dependent coverage.

(c) If the court finds that the available dependent health or dental insurance required to be obtained by the obligor does not pay all the reasonable and necessary medical or dental expenses of the child, or that the dependent health or dental insurance available to the obligee does not pay all the reasonable and necessary medical or dental expenses of the child, including any existing or anticipated extraordinary medical expenses, and the court finds that the obligor has the financial ability to contribute to the payment of these medical or dental expenses, the court shall require the obligor to be liable for all or a portion of the medical or dental expenses of the child not covered by the required health or dental plan. Medical and dental expenses include, but are not limited to, necessary orthodontia and eye care, including prescription lenses.

(d) If the obligor is employed by a self-insured employer subject only to the federal Employee Retirement Income Security Act (ERISA) of 1974, and the insurance benefit plan meets the above requirements, the court shall order the obligor to enroll the dependents within 30 days of the court order effective date or be liable for all medical and dental expenses occurring while coverage is not in effect. If enrollment in the ERISA plan is precluded by exclusionary clauses, the court shall order the obligor to obtain other coverage or make payments as provided in paragraph (b) or (c).

(e) Unless otherwise agreed by the parties, if the court finds that the obligee is not receiving public assistance for the child and has the financial ability to contribute to the cost of medical and dental expenses for the child, including the cost of insurance, the court may order the obligee and obligor to each assume a portion of these expenses based on their proportionate share of their total net income as defined in section 518.54, subdivision 6.

(f) Payments ordered under this section are subject to section 518.611. An obligee who fails to apply payments received to the medical expenses of the dependents may be found in contempt of this order.

Sec. 18. Minnesota Statutes 1992, section 518.171, subdivision 2, is amended to read:

Subd. 2. [SPOUSAL OR EX-SPOUSAL COVERAGE.] The court shall require the obligor to provide dependent health and dental insurance for the benefit of the obligee if it is available at no additional cost to the obligor and in this case the provisions of this section apply.

Sec. 19. Minnesota Statutes 1992, section 518.171, is amended by adding a subdivision to read:

Subd. 2a. [EMPLOYER AND OBLIGOR NOTICE.] If an individual is hired for employment, the employer may request that the individual disclose whether the individual has court-ordered medical support obligations that are required by law to be withheld from income and the terms of the court order, if any. The employer may request that the individual disclose whether the individual has been ordered by a court to provide health and dental dependent insurance coverage. The individual shall disclose this information at the time of hiring. If an individual discloses that medical support is required to be withheld, the employer shall begin withholding according to the terms of the order and pursuant to section 518.611, subdivision 8. If an individual discloses an obligation to obtain health and dental dependent insurance coverage and coverage is available through the employer, the employer shall make all application processes known to the individual upon hiring and enroll the employee and dependent in the plan pursuant to subdivision 3.

Sec. 20. Minnesota Statutes 1992, section 518.171, subdivision 3, is amended to read:

Subd. 3. [IMPLEMENTATION.] A copy of the court order for insurance coverage shall be forwarded to the obligor's employer or union by the obligee or the public authority responsible for support enforcement only when ordered by the court or when the following conditions are met:

(1) the obligor fails to provide written proof to the obligee or the public authority, within 30 days of receiving the effective notice date of the court order, that the insurance has been obtained or that application for insurability has been made;

(2) the obligee or the public authority serves written notice of its intent to enforce medical support on the obligor by mail at the obligor's last known post office address; and

(3) the obligor fails within 15 days after the mailing of the notice to provide written proof to the obligee or the public authority that the insurance coverage existed as of the date of mailing.

The employer or union shall forward a copy of the order to the health and dental insurance plan offered by the employer.

Sec. 21. Minnesota Statutes 1992, section 518.171, subdivision 4, is amended to read:

Subd. 4. [EFFECT OF ORDER.] (a) The order is binding on the employer or union and the health and dental insurance plan when service under subdivision 3 has been made. Upon receipt of the order, or upon application of the obligor pursuant to the order, the employer or union and its health and dental insurance plan shall enroll the minor child as a beneficiary in the group insurance plan and withhold any required premium from the obligor's income or wages. If more than one plan is offered by the employer or union, the child shall be enrolled in the insurance plan in which the obligor is enrolled or the least costly plan otherwise available to the obligor that is comparable to a number two qualified plan.

(b) An employer or union that willfully fails to comply with the order is liable for any health or dental expenses incurred by the dependents during the period of time the dependents were eligible to be enrolled in the insurance program, and for any other premium costs incurred because the employer or union willfully failed to comply with the order. An employer or union that fails to comply with the order is subject to contempt under section 41 and is also subject to a fine of \$500 to be paid to the obligee or public authority. Fines paid to the public authority are designated for child support enforcement services.

(c) Failure of the obligor to execute any documents necessary to enroll the dependent in the group health and dental insurance plan will not affect the obligation of the employer or union and group health and dental insurance plan to enroll the dependent in a plan for which other eligibility requirements are met. Information and authorization provided by the public authority responsible for child support enforcement, or by the custodial parent or guardian, is valid for the purposes of meeting enrollment requirements of the health plan. The insurance coverage for a child eligible under subdivision 5 shall not be terminated except as authorized in subdivision 5.

Sec. 22. Minnesota Statutes 1992, section 518.171, subdivision 6, is amended to read:

Subd. 6. [INSURER REIMBURSEMENT; CORRESPONDENCE AND NOTICE.] (a) The signature of the custodial parent of the insured dependent is a valid authorization to the insurer for purposes of processing an insurance reimbursement payment to the provider of the medical services or to the custodial parent if medical services have been prepaid by the custodial parent.

(b) The insurer shall send copies of all correspondence regarding the insurance coverage to both parents. When an order for dependent insurance coverage is in effect and the obligor's employment is terminated, or the insurance coverage is terminated, the insurer shall notify the obligee within ten days of the termination date with notice of conversion privileges.

Sec. 23. Minnesota Statutes 1992, section 518.171, subdivision 7, is amended to read:

Subd. 7. [RELEASE OF INFORMATION.] When an order for dependent insurance coverage is in effect, the obligor's employer or union, or insurance agent shall release to the obligee or the public authority, upon request, information on the dependent coverage, including the name of the insurer. Notwithstanding any other law, information reported pursuant to section 268.121 shall be released to the public agency responsible for support enforcement that is enforcing an order for medical or dental insurance coverage under this section. The public agency responsible for support enforcement is authorized to release to the obligor's insurer or employer information necessary to obtain or enforce medical support.

Sec. 24. Minnesota Statutes 1992, section 518.171, subdivision 8, is amended to read:

Subd. 8. [OBLIGOR LIABILITY.] ~~The~~ (a) An obligor that who fails to maintain the medical or dental insurance for the benefit of the children as ordered shall be or fails to provide other medical support as ordered is liable to the obligee for any medical or dental expenses incurred from the effective date of the court order, including health and dental insurance premiums paid by the obligee because of the obligor's failure to obtain coverage as ordered. Proof of failure to maintain insurance or noncompliance with an order to provide other medical support constitutes a showing of increased need by the obligee pursuant to section 518.64 and provides a basis for a modification of the obligor's child support order.

(b) Payments for services rendered to the dependents that are directed to the obligor, in the form of reimbursement by the insurer, must be endorsed over to and forwarded to the vendor or custodial parent or public authority when the reimbursement is not owed to the obligor. An obligor retaining insurance reimbursement not owed to the obligor may be found in contempt of this order and held liable for the amount of the reimbursement. Upon written verification by the insurer of the amounts paid to the obligor, the reimbursement amount is subject to all enforcement remedies available under subdivision 10.

Sec. 25. Minnesota Statutes 1992, section 518.171, subdivision 10, is amended to read:

Subd. 10. [ENFORCEMENT.] Remedies available for the collection and enforcement of child support apply to medical support. For the purpose of enforcement, the costs of individual or group health or hospitalization coverage, dental coverage, all medical costs ordered by the court to be paid by the obligor, including health and dental insurance premiums paid by the obligee because of the obligor's failure to obtain coverage as ordered or liabilities established pursuant to subdivision 8, are additional child support.

Sec. 26. Minnesota Statutes 1992, section 518.24, is amended to read:

518.24 [SECURITY; SEQUESTRATION; CONTEMPT.]

In all cases when maintenance or support payments are ordered, the court may require sufficient security to be given for the payment of them according to the terms of the order. Upon neglect or refusal to give security, or upon failure to pay the maintenance or support, the court may sequester the obligor's personal estate and the rents and profits of real estate of the obligor, and appoint a receiver of them. The court may cause the personal estate and the rents and profits of the real estate to be applied according to the terms of the order. The obligor is presumed to have an income from a source sufficient to pay the maintenance or support order. A child support or maintenance order constitutes prima facie evidence that the obligor has the ability to pay the award. If the obligor disobeys the order, it is prima facie evidence of contempt.

Sec. 27. Minnesota Statutes 1992, section 518.54, subdivision 4, is amended to read:

Subd. 4. [SUPPORT MONEY; CHILD SUPPORT.] "Support money" or "child support" means:

(1) an award in a dissolution, legal separation, ~~or annulment~~, or parentage proceeding for the care, support and education of any child of the marriage or of the parties to the ~~annulment proceeding; or~~

(2) a contribution by parents ordered under section 256.87.

Sec. 28. Minnesota Statutes 1992, section 518.551, subdivision 1, is amended to read:

Subdivision 1. [SCOPE; PAYMENT TO PUBLIC AGENCY.] (a) This section applies to all proceedings involving an award of child support.

(b) The court shall direct that all payments ordered for maintenance and support be made to the public agency responsible for child support enforcement so long as the obligee is receiving or has applied for public assistance, or has applied for child support and maintenance collection services. Public authorities responsible for child support enforcement may act on behalf of other public authorities responsible for child support enforcement. This includes the authority to represent the legal interests of or execute documents on behalf of the other public authority in connection with the establishment, enforcement, and collection of child support, maintenance, or medical support, and collection on judgments. Amounts received by the public agency responsible for child support enforcement greater than the amount granted to the obligee shall be remitted to the obligee.

Sec. 29. Minnesota Statutes 1992, section 518.551, subdivision 5, is amended to read:

Subd. 5. [NOTICE TO PUBLIC AUTHORITY; GUIDELINES.] (a) The petitioner shall notify the public authority of all proceedings for dissolution, legal separation, determination of parentage or for the custody of a child, if either party is receiving aid to families with dependent children or applies for it subsequent to the commencement of the proceeding. After receipt of the notice, the court shall set child support as provided in this subdivision. The court may order either or both parents owing a duty of support to a child of the marriage to pay an amount reasonable or necessary for the child's support, without regard to marital misconduct. The court shall approve a child support stipulation of the parties if each party is represented by independent counsel, unless the stipulation does not meet the conditions of paragraph (h). In other cases the court shall determine and order child support in a specific dollar amount in accordance with the guidelines and the other factors set forth in paragraph (b) and any departure therefrom. The court may also order the obligor to pay child support in the form of a percentage share of the obligor's net bonuses, commissions, or other forms of compensation, in addition to, or if the obligor receives no base pay, in lieu of, an order for a specific dollar amount.

(b) The court shall derive a specific dollar amount for child support by multiplying the obligor's net income by the percentage indicated by the following guidelines:

Net Income Per Month of Obligor	Number of Children						
	1	2	3	4	5	6	7 or more
\$400 \$550 and Below	Order based on the ability of the obligor to provide support at these income levels, or at higher levels, if the obligor has the earning ability.						
\$401—500	14%	17%	20%	22%	24%	26%	28%
\$501—550	15%	18%	21%	24%	26%	28%	30%
\$551 - 600	16%	19%	22%	25%	28%	30%	32%
\$601 - 650	17%	21%	24%	27%	29%	32%	34%
\$651 - 700	18%	22%	25%	28%	31%	34%	36%
\$701 - 750	19%	23%	27%	30%	33%	36%	38%
\$751 - 800	20%	24%	28%	31%	35%	38%	40%
\$801 - 850	21%	25%	29%	33%	36%	40%	42%
\$851 - 900	22%	27%	31%	34%	38%	41%	44%
\$901 - 950	23%	28%	32%	36%	40%	43%	46%
\$951 - 1000	24%	29%	34%	38%	41%	45%	48%
\$1001- 4000	25%	30%	35%	39%	43%	47%	50%

7500

or the amount
in effect under
paragraph (k)

Guidelines for support for an obligor with a monthly income of ~~\$4,001~~ \$7,501 or more shall be the same dollar amounts as provided for in the guidelines for an obligor with a monthly income of ~~\$4,000~~ \$7,500 or the amount in effect under paragraph (k).

Net Income defined as:

Total monthly
income less

- *(i) Federal Income Tax
- *(ii) State Income Tax
- (iii) Social Security
Deductions
- (iv) Reasonable
Pension Deductions

*Standard
Deductions apply-
use of tax tables
recommended

- (v) Union Dues
- (vi) Cost of Dependent Health
Insurance Coverage
- (vii) Cost of Individual or Group
Health/Hospitalization
Coverage or an
Amount for Actual
Medical Expenses
- (viii) A Child Support or
Maintenance Order that is
Currently Being Paid.

"Net income" does not include:

(1) the income of the obligor's spouse, but does include in-kind payments received by the obligor in the course of employment, self-employment, or operation of a business if the payments reduce the obligor's living expenses; or

(2) compensation received by a party for employment in excess of a 40-hour work week, provided that:

(i) support is nonetheless ordered in an amount at least equal to the guidelines amount based on income not excluded under this clause; and

(ii) the party demonstrates, and the court finds, that:

(A) the excess employment began after the filing of the petition for dissolution;

(B) the excess employment reflects an increase in the work schedule or hours worked over that of the two years immediately preceding the filing of the petition;

(C) the excess employment is voluntary and not a condition of employment;

(D) the excess employment is in the nature of additional, part-time or overtime employment compensable by the hour or fraction of an hour; and

(E) the party's compensation structure has not been changed for the purpose of affecting a support or maintenance obligation.

The court shall review the work related and education related child care costs of the custodial parent and shall allocate the costs to each parent in proportion to each parent's income after the transfer of child support. The cost of child care for purposes of this section is determined by subtracting the amount of any federal and state income tax credits available to a parent from the actual cost paid for child care. The amount allocated for child care expenses is considered child support.

~~(b)~~ (c) In addition to the child support guidelines, the court shall take into consideration the following factors in setting or modifying child support:

(1) all earnings, income, and resources of the parents, including real and personal property, but excluding income from excess employment of the obligor or obligee that meets the criteria of paragraph ~~(a)~~ (b), clause (2)(ii);

(2) the financial needs and resources, physical and emotional condition, and educational needs of the child or children to be supported;

(3) the standards of living the child would have enjoyed had the marriage not been dissolved, but recognizing that the parents now have separate households;

~~(4) the amount of the aid to families with dependent children grant for the child or children;~~

~~(5)~~ which parent receives the income taxation dependency exemption and what financial benefit the parent receives from it; and

~~(6)~~ ~~(5)~~ the parents' debts as provided in paragraph ~~(e)~~ (d).

(e) (d) In establishing or modifying a support obligation, the court may consider debts owed to private creditors, but only if:

(1) the right to support has not been assigned under section 256.74;

(2) the court determines that the debt was reasonably incurred for necessary support of the child or parent or for the necessary generation of income. If the debt was incurred for the necessary generation of income, the court shall consider only the amount of debt that is essential to the continuing generation of income; and

(3) the party requesting a departure produces a sworn schedule of the debts, with supporting documentation, showing goods or services purchased, the recipient of them, the amount of the original debt, the outstanding balance, the monthly payment, and the number of months until the debt will be fully paid.

(d) (e) Any schedule prepared under paragraph (e) (d), clause (3), shall contain a statement that the debt will be fully paid after the number of months shown in the schedule, barring emergencies beyond the party's control.

(e) (f) Any further departure below the guidelines that is based on a consideration of debts owed to private creditors shall not exceed 18 months in duration, after which the support shall increase automatically to the level ordered by the court. Nothing in this section shall be construed to prohibit one or more step increases in support to reflect debt retirement during the 18-month period.

(f) (g) If payment of debt is ordered pursuant to this section, the payment shall be ordered to be in the nature of child support.

(g) (h) Nothing shall preclude the court from receiving evidence on the above factors to determine if the guidelines should be exceeded or modified in a particular case.

(h) (i) The guidelines in this subdivision are a rebuttable presumption and shall be used in all cases when establishing or modifying child support. If the court does not deviate from the guidelines, the court shall make written findings concerning the amount of the obligor's income used as the basis for the guidelines calculation and any other significant evidentiary factors affecting the determination of child support. If the court deviates from the guidelines, the court shall make written findings giving the reasons for the deviation and shall specifically address the criteria in paragraph (b) and how the deviation serves the best interest of the child. The provisions of this paragraph apply whether or not the parties are each represented by independent counsel and have entered into a written agreement. The court shall review stipulations presented to it for conformity to the guidelines and the court is not required to conduct a hearing, but the parties shall provide the documentation of earnings required under subdivision 5b.

(j) If the child support payments are assigned to the public agency under section 256.74, the court may not deviate downward from the child support guidelines in the establishment of a child support order unless the court specifically finds that the failure to deviate downward would impose an extreme hardship on the obligor.

(k) The dollar amount of the income limit for application of the guidelines must be adjusted on July 1 of every even-numbered year to reflect cost-of-living changes. The supreme court shall select the index for the adjustment from the indices listed in section 518.641. The state court administrator shall make the changes in the dollar amount required by this paragraph available to courts and the public on or before April 30 of the year in which the amount is to change.

Sec. 30. Minnesota Statutes 1992, section 518.551, subdivision 5b, is amended to read:

Subd. 5b. [DETERMINATION OF INCOME.] (a) The parties shall timely serve and file documentation of earnings and income. When there is a prehearing conference, the court must receive the documentation of income at least ten days prior to the prehearing conference. Documentation of earnings and income also includes, but is not limited to, pay stubs for the most recent three months, employer statements, or statement of receipts and expenses if self-employed. Documentation of earnings and income also includes copies of each parent's most recent federal tax returns, including W-2 forms, 1099 forms, unemployment compensation statements, workers' compensation statements, and all other documents evidencing income as received that provide verification of income over a longer period.

(b) In addition to the requirements of paragraph (a), at any time after an action seeking child support has been commenced or when a child support order is in effect, a party or the public authority may require the other party to give them a copy of the party's most recent federal tax returns that were filed with the Internal Revenue Service. The party shall provide a copy of the tax returns within 30 days of receipt of the request unless the request is not made in good faith. Failure of a party, without leave of the court, to provide a true and accurate copy of the tax return as required under this paragraph may be contempt of court. A request under this paragraph may not be made more than once every two years, in the absence of good cause.

(c) If a parent under the jurisdiction of the court does not appear at a court hearing after proper notice of the time and place of the hearing, the court shall set income for that parent based on credible evidence before the court or in accordance with paragraph (e) (d). Credible evidence may include documentation of current or recent income, testimony of the other parent concerning recent earnings and income levels, and the parent's wage reports filed with the Minnesota department of jobs and training under section 268.121.

(e) (d) If the court finds that a parent is voluntarily unemployed or underemployed, child support shall be calculated based on a determination of imputed income. A parent is not considered voluntarily unemployed or underemployed upon a showing by the parent that the unemployment or underemployment: (1) is temporary and will ultimately lead to an increase in income; or (2) represents a bona fide career change that outweighs the adverse effect of that parent's diminished income on the child. Imputed income means the estimated earning ability of a parent based on the parent's prior earnings history, education, and job skills, and on availability of jobs within the community for an individual with the parent's qualifications. If the court is unable to determine or estimate the earning ability of a parent, the court may calculate child support based on full-time employment of 40 hours per week at the federal minimum wage or the Minnesota minimum wage, whichever is higher. If a parent is a recipient of public assistance under sections 256.72 to 256.87 or chapter 256D, or is physically or mentally incapacitated, it shall be presumed that the parent is not voluntarily unemployed or underemployed.

Sec. 31. Minnesota Statutes 1992, section 518.551, is amended by adding a subdivision to read:

Subd. 5d. [EDUCATION TRUST FUND.] If the child support order provides the child with a reasonable standard of living, the parties may agree to designate a sum of money as a trust fund for the costs of post-secondary education.

Sec. 32. Minnesota Statutes 1992, section 518.551, subdivision 7, is amended to read:

Subd. 7. [SERVICE FEE.] When the public agency responsible for child support enforcement provides child support collection services either to a public assistance recipient or to a party who does not receive public assistance, the public agency may upon written notice to the obligor charge a monthly collection fee equivalent to the full monthly cost to the county of providing collection services, in addition to the amount of the child support which was ordered by the court. The fee shall be deposited in the county general fund. The service fee assessed is limited to ten percent of the monthly court ordered child support and shall not be assessed to obligors who are current in payment of the monthly court ordered child support.

An application fee ~~not to exceed~~ of \$25 shall be paid by the person who applies for child support and maintenance collection services, except persons who transfer from public assistance to nonpublic assistance status. Fees assessed by state and federal tax agencies for collection of overdue support owed to or on behalf of a person not receiving public assistance must be imposed on the person for whom these services are provided. The public authority upon written notice to the obligee shall assess a fee of \$25 to the person not receiving public assistance for each successful federal tax interception. The fee must be withheld prior to the release of the funds received from each interception and deposited in the general fund.

However, the limitations of this subdivision on the assessment of fees shall not apply to the extent inconsistent with the requirements of federal law for receiving funds for the programs under Title IV-A and Title IV-D of the Social Security Act, United States Code, title 42, sections 601 to 613 and United States Code, title 42, sections 651 to 662.

Sec. 33. Minnesota Statutes 1992, section 518.551, subdivision 10, is amended to read:

Subd. 10. [ADMINISTRATIVE PROCESS FOR CHILD AND MEDICAL SUPPORT ORDERS.] (a) An administrative process is established to obtain, modify, and enforce child and medical support orders and maintenance.

The commissioner of human services may designate counties to participate in the administrative process established by this section. All proceedings for obtaining, modifying, or enforcing child and medical support orders and maintenance and adjudicating uncontested parentage proceedings, are required to be conducted in counties designated by the commissioner of human services in which the county human services agency is a party or represents provides services to a party or parties to the action. These actions must be conducted by an administrative law judge from the office of administrative hearings, except for the following proceedings:

- (1) adjudication of contested parentage;
- (2) motions to set aside a paternity adjudication or declaration of parentage;
- (3) evidentiary hearing on contempt motions; and
- (4) motions to sentence or to revoke the stay of a jail sentence in contempt proceedings.

(b) An administrative law judge may hear a stipulation reached on a contempt motion, but any stipulation that involves a finding of contempt and a jail sentence, whether stayed or imposed, shall require the review and signature of a district judge.

(c) For the purpose of this process, all powers, duties, and responsibilities conferred on judges of the district court to obtain and enforce child and medical support and maintenance obligations, subject to the limitation set forth herein, are conferred on the administrative law judge conducting the proceedings, including the power to issue orders to show cause and to issue bench warrants for failure to appear.

(d) Before implementing the process in a county, the chief administrative law judge, the commissioner of human services, the director of the county human services agency, the county attorney, ~~and the county court administrator,~~ and county sheriff shall jointly establish procedures and the county shall provide hearing facilities for implementing this process in a county.

(e) Nonattorney employees of the public agency responsible for child support in the counties designated by the commissioner, ~~acting at the direction of the county attorney,~~ may prepare, sign, serve, and file complaints and motions for obtaining, modifying, or enforcing child and medical support orders and maintenance and related documents, appear at prehearing conferences, and participate in proceedings before an administrative law judge. This activity shall not be considered to be the unauthorized practice of law.

(f) The hearings shall be conducted under the rules of the office of administrative hearings, Minnesota Rules, parts 1400.7100 to 1400.7500, 1400.7700, and 1400.7800, as adopted by the chief administrative law judge. All other aspects of the case, including, but not limited to, pleadings, discovery, and motions, shall be conducted under the rules of family court, the rules of civil procedure, and chapter 518. The administrative law judge shall make findings of fact, conclusions, and a final decision and issue an order. Orders issued by an administrative law judge are enforceable by the contempt powers of the county and district courts.

(g) The decision and order of the administrative law judge is appealable to the court of appeals in the same manner as a decision of the district court.

(h) The commissioner of human services shall distribute money for this purpose to counties to cover the costs of the administrative process, including the salaries of administrative law judges. If available appropriations are insufficient to cover the costs, the commissioner shall prorate the amount among the counties.

Sec. 34. Minnesota Statutes 1992, section 518.551, subdivision 12, is amended to read:

Subd. 12. [OCCUPATIONAL LICENSE SUSPENSION.] Upon petition of an obligee or public agency responsible for child support enforcement, if the court finds that the obligor is or may be licensed by a licensing board listed in section 214.01 or other state agency or board that issues an occupational license and the obligor is in arrears in court-ordered child support payments, the court may direct the licensing board or other licensing agency to conduct a hearing under section 214.101 concerning suspension of the obligor's license. If the obligor is a licensed attorney, the court may report the matter to the lawyers professional responsibility board for appropriate action in accordance with the rules of professional conduct. The remedy under this subdivision is in addition to any other enforcement remedy available to the court.

Sec. 35. Minnesota Statutes 1992, section 518.57, subdivision 1, is amended to read:

Subdivision 1. [ORDER.] Upon a decree of dissolution, legal separation, or annulment, the court shall make a further order which is just and proper concerning the maintenance of the minor children as provided by section 518.551, and for the maintenance of any child of the parties as defined in section 518.54, as support money, ~~and. The court may make the same any child support order a lien or charge upon the property of the parties to the proceeding, or either of them obligor,~~ either at the time of the entry of the judgment or by subsequent order upon proper application.

Sec. 36. Minnesota Statutes 1992, section 518.57, is amended by adding a subdivision to read:

Subd. 4. [OTHER CUSTODIANS.] If a child resides with a person other than a parent and the court approves of the custody arrangement, the court may order child support payments to be made to the custodian regardless of whether the person has legal custody.

Sec. 37. Minnesota Statutes 1992, section 518.611, subdivision 4, is amended to read:

Subd. 4. [EFFECT OF ORDER.] (a) Notwithstanding any law to the contrary, the order is binding on the employer, trustee, payor of the funds, or financial institution when service under subdivision 2 has been made. Withholding must begin no later than the first pay period that occurs after 14 days following the date of the notice. In the case of a financial institution, preauthorized transfers must occur in accordance with a court-ordered payment schedule. An employer, payor of funds, or financial institution in this state is required to withhold income according to court orders for withholding issued by other states or territories. The payor shall withhold from the income payable to the obligor the amount specified in the order and amounts required under subdivision 2 and section 518.613 and shall remit, within ten days of the date the obligor is paid the remainder of the income, the amounts withheld to the public authority. The payor shall identify on the remittance information the date the obligor is paid the remainder of the income. The obligor is considered to have paid the amount withheld as of the date the obligor received the remainder of the income. The financial institution shall execute preauthorized transfers from the deposit accounts of the obligor in the amount specified in the order and amounts required under subdivision 2 as directed by the public authority responsible for child support enforcement.

(b) Employers may combine all amounts withheld from one pay period into one payment to each public authority, but shall separately identify each obligor making payment. Amounts received by the public authority which are in excess of public assistance expended for the party or for a child shall be remitted to the party.

(c) An employer shall not discharge, or refuse to hire, or otherwise discipline an employee as a result of a wage or salary withholding authorized by this section. The employer or other payor of funds shall be liable to the obligee for any amounts required to be withheld. A financial institution is liable to the obligee if funds in any of the obligor's deposit accounts identified in the court order equal the amount stated in the preauthorization agreement but are not transferred by the financial institution in accordance with the agreement. An employer or other payor of funds that fails to withhold or transfer funds in accordance with this section is also liable to the obligee for interest on the funds at the rate applicable to judgments under section 549.09, computed from the date the funds were required to be withheld or transferred. An employer or other payor of funds is liable for reasonable attorney fees of the obligee or public authority incurred in enforcing the liability under this paragraph. An employer or other payor of funds that has failed to comply with the requirements of this section is subject to contempt sanctions under section 41.

Sec. 38. Minnesota Statutes 1992, section 518.613, subdivision 1, is amended to read:

Subdivision 1. [GENERAL.] Notwithstanding any provision of section 518.611, subdivision 2 or 3, to the contrary, whenever an obligation for child support or maintenance, enforced by the public authority, is initially determined and ordered or modified by the court in a county in which this section applies, the amount of child support or maintenance ordered by the court and any fees assessed by the public authority responsible for child support enforcement must be withheld from the income, regardless of source, of the person obligated to pay the support.

Sec. 39. [518.615] [EMPLOYER CONTEMPT.]

Subdivision 1. [ORDERS BINDING.] Income withholding or medical support orders issued pursuant to sections 518.171, 518.611, and 518.613 are binding on the employer, trustee, or other payor of funds after the order and notice of income withholding or enforcement of medical support has been served on the employer, trustee, or payor of funds.

Subd. 2. [CONTEMPT ACTION.] An obligee or the public agency responsible for child support enforcement may initiate a contempt action against an employer, trustee, or payor of funds, within the action that created the support obligation, by serving an order to show cause upon the employer, trustee, or payor of funds.

The employer, trustee, or payor of funds is presumed to be in contempt:

(1) if the employer, trustee, or payor of funds has intentionally failed to withhold support after receiving the order and notice of income withholding or notice of enforcement of medical support; or

(2) upon presentation of pay stubs or similar documentation showing the employer, trustee, or payor of funds withheld support and demonstration that the employer, trustee, or payor of funds intentionally failed to remit support to the agency responsible for child support enforcement.

Subd. 3. [LIABILITY.] The employer, trustee, or payor of funds is liable to the obligee or the agency responsible for child support enforcement for any amounts required to be withheld that were not paid. The court may enter judgment against the employer, trustee, or payor of funds for support not withheld or remitted. The court may also impose contempt sanctions under chapter 588.

Sec. 40. Minnesota Statutes 1992, section 518.64, subdivision 1, is amended to read:

Subdivision 1. After an order for maintenance or support money, temporary or permanent, or for the appointment of trustees to receive property awarded as maintenance or support money, the court may from time to time, on motion of either of the parties, a copy of which is served on the public authority responsible for child support enforcement if payments are made through it, or on motion of the public authority responsible for support enforcement, modify the order respecting the amount of maintenance or support money, and the payment of it, and also respecting the appropriation and payment of the principal and income of property held in trust, and may make an order respecting these matters which it might have made in the original proceeding, except as herein otherwise provided. A party or the public authority also may bring a motion for contempt of court if the obligor is in arrears in support or maintenance payments.

Sec. 41. Minnesota Statutes 1992, section 518.64, subdivision 2, is amended to read:

Subd. 2. [MODIFICATION.] (a) The terms of an order respecting maintenance or support may be modified upon a showing of one or more of the following: (1) substantially increased or decreased earnings of a party; (2) substantially increased or decreased need of a party or the child or children that are the subject of these proceedings; (3) receipt of assistance under sections 256.72 to 256.87; or (4) a change in the cost of living for either party as measured by the federal bureau of statistics, any of which makes the terms unreasonable and unfair; or (5) extraordinary medical expenses of the child not provided for under section 518.171.

It is presumed that there has been a substantial change in circumstances under clause (1), (2), or (4) and the terms of a current support order shall be rebuttably presumed to be unreasonable and unfair if the application of the child support guidelines in section 518.551, subdivision 5, to the current circumstances of the parties results in a calculated court order that is at least 20 percent and at least \$50 per month higher or lower than the current support order.

(b) On a motion for modification of maintenance, including a motion for the extension of the duration of a maintenance award, the court shall apply, in addition to all other relevant factors, the factors for an award of maintenance under section 518.552 that exist at the time of the motion. On a motion for modification of support, the court:

(1) shall apply section 518.551, subdivision 5, and shall not consider the financial circumstances of each party's spouse, if any; and

(2) shall not consider compensation received by a party for employment in excess of a 40-hour work week, provided that the party demonstrates, and the court finds, that:

(i) the excess employment began after entry of the existing support order;

(ii) the excess employment is voluntary and not a condition of employment;

(iii) the excess employment is in the nature of additional, part-time employment, or overtime employment compensable by the hour or fractions of an hour;

(iv) the party's compensation structure has not been changed for the purpose of affecting a support or maintenance obligation;

(v) in the case of an obligor, current child support payments are at least equal to the guidelines amount based on income not excluded under this clause; and

(vi) in the case of an obligor who is in arrears in child support payments to the obligee, any net income from excess employment must be used to pay the arrearages until the arrearages are paid in full.

(c) A modification of support or maintenance may be made retroactive only with respect to any period during which the petitioning party has pending a motion for modification but only from the date of service of notice of the motion on the responding party and on the public authority if public assistance is being furnished or the county attorney is the attorney of record. However, modification may be applied to an earlier period if the court makes express findings that the party seeking modification was precluded from serving a motion by reason of a significant physical or mental disability, a material misrepresentation of another party, or fraud upon the court and that the party seeking modification, when no longer precluded, promptly served a motion.

(d) Except for an award of the right of occupancy of the homestead, provided in section 518.63, all divisions of real and personal property provided by section 518.58 shall be final, and may be revoked or modified only where the court finds the existence of conditions that justify reopening a judgment under the laws of this state, including motions under section 518.145, subdivision 2. The court may impose a lien or charge on the divided property at any time while the property, or subsequently acquired property, is owned by the parties or either of them, for the payment of maintenance or support money, or may sequester the property as is provided by section 518.24.

(e) The court need not hold an evidentiary hearing on a motion for modification of maintenance or support.

(f) Section 518.14 shall govern the award of attorney fees for motions brought under this subdivision.

Sec. 42. Minnesota Statutes 1992, section 518.64, subdivision 5, is amended to read:

Subd. 5. [FORM.] The department of human services shall prepare and make available to courts, obligors and persons to whom child support is owed a form to be submitted by the obligor or the person to whom child support is owed in support of a motion for a modification of an order for support or maintenance or for contempt of court. The rulemaking provisions of chapter 14 shall not apply to the preparation of the form.

Sec. 43. Minnesota Statutes 1992, section 518.64, subdivision 6, is amended to read:

Subd. 6. [EXPEDITED PROCEDURE.] (a) The public authority may seek a modification of the child support order in accordance with the rules of civil procedure or under the expedited procedures in this subdivision.

(b) The public authority may serve the following documents upon the obligor either by certified mail or in the manner provided for service of ~~a summons~~ other pleadings under the rules of civil procedure:

(i) a notice of its application for modification of the obligor's support order stating the amount and effective date of the proposed modification which date shall be no sooner than 30 days from the date of service;

(ii) an affidavit setting out the basis for the modification under subdivision 2, including evidence of the current income of the parties;

(iii) any other documents the public authority intends to file with the court in support of the modification;

(iv) the proposed order;

(v) notice to the obligor that if the obligor fails to move the court and request a hearing on the issue of modification of the support order within 30 days of service of the notice of application for modification, the public authority will likely obtain an order, ex parte, modifying the support order; and

(vi) an explanation to the obligor of how a hearing can be requested, together with a motion for review form that the obligor can complete and file with the court to request a hearing.

(c) If the obligor moves the court for a hearing, any modification must be stayed until the court has had the opportunity to determine the issue. Any modification ordered by the court is effective on the date set out in the notice of application for modification, but no earlier than 30 days following the date the obligor was served.

(d) If the obligor fails to move the court for hearing within 30 days of service of the notice, the public authority shall file with the court a copy of the notice served on the obligor as well as all documents served on the obligor, proof of service, and a proposed order modifying support.

(e) If, following judicial review, the court determines that the procedures provided for in this subdivision have been followed and the requested modification is appropriate, the order shall be signed ex parte and entered.

(f) Failure of the court to enter an order under this subdivision does not prejudice the right of the public authority or either party to seek modification in accordance with the rules of civil procedure.

(g) The supreme court shall develop standard forms for the notice of application of modification of the support order, the supporting affidavit, the obligor's responsive motion, and proposed order granting the modification.

Sec. 44. [518.585] [NOTICE OF INTEREST ON LATE CHILD SUPPORT.]

Any judgment or decree of dissolution or legal separation containing a requirement of child support and any determination of parentage, order under chapter 518C, order under section 256.87, or order under section 260.251 must include a notice to the parties that section 49 provides for interest to begin accruing on a payment or installment of child support whenever the unpaid amount due is greater than the current support due.

Sec. 45. Minnesota Statutes 1992, section 519.11, is amended to read:

519.11 [ANTENUPTIAL CONTRACT AND POSTNUPTIAL CONTRACTS.]

Subdivision 1. [ANTENUPTIAL CONTRACT.] A man and woman of legal age may enter into an antenuptial contract or settlement prior to solemnization of marriage which shall be valid and enforceable if (a) there is a full and fair disclosure of the earnings and property of each party, and (b) the parties have had an opportunity to consult with legal counsel of their own choice. An antenuptial contract or settlement made in conformity with this section may determine what rights each party has in the nonmarital property, defined in section 518.54, subdivision 5, clauses (a) to (d), upon dissolution of marriage, legal separation or after its termination by death and may bar each other of all rights in the respective estates not so secured to them by their agreement. This section shall not be construed to make invalid or unenforceable any antenuptial agreement or settlement made and executed in conformity with this section because the agreement or settlement covers or includes marital property, if the agreement or settlement would be valid and enforceable without regard to this section.

Subd. 1a. [POSTNUPTIAL CONTRACT.] (a) Spouses who are legally married under the laws of this state may enter into a postnuptial contract or settlement which is valid and enforceable if it:

(1) complies with the requirements for antenuptial contracts or settlements in this section and in the law of this state, including, but not limited to, the requirement that it be procedurally and substantively fair and equitable both at the time of its execution and at the time of its enforcement; and

(2) complies with the requirements for postnuptial contracts or settlements in this section.

(b) A postnuptial contract or settlement that conforms with this section may determine all matters that may be determined by an antenuptial contract or settlement under the law of this state, except that a postnuptial contract or settlement may not determine the rights of any child of the spouses to child support from either spouse.

(c) A postnuptial contract or settlement is valid and enforceable only if at the time of its execution each spouse is represented by separate legal counsel.

(d) A postnuptial contract or settlement is valid and enforceable only if at the time of its execution each of the spouses entering into the contract or settlement has marital property titled in that spouse's name, nonmarital property, or a combination of marital property titled in that spouse's name and nonmarital property with a total value exceeding \$1,200,000.

(e) A postnuptial contract or settlement is not valid or enforceable if either party commences an action for a legal separation or dissolution within two years of the date of its execution.

Subd. 2. [WRITING; EXECUTION.] Antenuptial or postnuptial contracts or settlements shall be in writing, executed in the presence of two witnesses and acknowledged by the parties, executing the same before any officer or person authorized to administer an oath under the laws of this state. ~~The agreement~~ An antenuptial contract must be entered into and executed prior to the day of solemnization of marriage.

Subd. 2a. [AMENDMENT OR REVOCATION.] An antenuptial contract or settlement may be amended or revoked after the marriage of the parties only by a valid postnuptial contract or settlement which complies with this section and with the laws of this state. A postnuptial contract or settlement may be amended or revoked only by a later, valid postnuptial contract or settlement which complies with this section and with the laws of this state.

Subd. 3. [FILING; RECORDING.] An antenuptial or postnuptial contract or settlement which by its terms conveys or determines what rights each has in the other's real property and sets forth the legal description of the real estate granted or affected by the agreement may be filed or recorded in every county where any real estate so described is situated, in the office of the county recorder for the county or in any public office authorized to receive a deed, assignment or other instrument affecting the real estate, for filing or recording.

Subd. 4. [EFFECT OF RECORDING.] Any antenuptial or postnuptial contract or settlement not recorded in the office of the county recorder or other public office authorized to receive the document, where the real property is located, shall be void as against any subsequent purchaser in good faith and for a valuable consideration of the same real property, or any part thereof, whose conveyance is first duly recorded, and as against any attachment levied thereon or any judgment lawfully obtained at the suit of any party against the person in whose name the title to the property appears of record prior to recording of the conveyance.

Subd. 5. [EVIDENCE; BURDEN OF PROOF.] An antenuptial or postnuptial contract or settlement duly acknowledged and attested shall be prima facie proof of the matters acknowledged therein and as to those matters, the burden of proof shall be and rest upon the person contesting the same.

Subd. 6. [EFFECTIVE DATE.] This section shall apply to all antenuptial contracts and settlements executed on or after August 1, 1979, and shall apply to all postnuptial contracts and settlements executed on or after August 1, 1993.

Subd. 7. [EFFECT OF SECTIONS 519.01 TO 519.101.] Nothing in sections 519.01 to 519.101, shall be construed to affect antenuptial or postnuptial contracts or settlements.

Sec. 46. Minnesota Statutes 1992, section 548.09, subdivision 1, is amended to read:

Subdivision 1. [DOCKETING; SURVIVAL OF JUDGMENT.] Except as provided in section 548.091, every judgment requiring the payment of money shall be docketed by the court administrator upon its entry. Upon a transcript of the docket being filed with the court administrator in any other county, the court administrator shall also docket it. From the time of docketing the judgment is a lien, in the amount unpaid, upon all real property in the county then or thereafter owned by the judgment debtor, but it is not a lien upon registered land unless it is also filed pursuant to sections 508.63 and 508A.63. The judgment survives, and the lien continues, for ten years after its entry. An action to renew a child support judgment may be served by first class mail at the last known address of the debtor.

Sec. 47. Minnesota Statutes 1992, section 548.091, subdivision 1a, is amended to read:

Subd. 1a. [CHILD SUPPORT JUDGMENT BY OPERATION OF LAW.] Any payment or installment of support required by a judgment or decree of dissolution or legal separation, determination of parentage, an order under chapter 518C, an order under section 256.87, or an order under section 260.251, that is not paid or withheld from the obligor's income as required under section 518.611 or 518.613, is a judgment by operation of law on and after the date it is due and is entitled to full faith and credit in this state and any other state. Interest accrues at an annual rate of ten percent from the date the judgment on the payment or installment is entered and docketed under subdivision 3a; at the annual rate provided in section 549.09, subdivision 1 unpaid amount due is greater than the current support due. A payment or installment of support that becomes a judgment by operation of law between the date on which a party served notice of a motion for modification under section 518.64, subdivision 2, and the date of the court's order on modification may be modified under that subdivision.

Sec. 48. Minnesota Statutes 1992, section 548.091, subdivision 3a, is amended to read:

Subd. 3a. [ENTRY, DOCKETING, AND SURVIVAL OF CHILD SUPPORT JUDGMENT.] Upon receipt of the documents filed under subdivision 2a, the court administrator shall enter and docket the judgment in the amount of the default specified in the affidavit of default. From the time of docketing, the judgment is a lien upon all the real property in the county owned by the judgment debtor. The judgment survives and the lien continues for ten years after the date the judgment was docketed. An action to renew a child support judgment may be served by first class mail at the last known address of the debtor.

Sec. 49. Minnesota Statutes 1992, section 588.20, is amended to read:

588.20 [CRIMINAL CONTEMPTS.]

Every person who shall commit a contempt of court, of any one of the following kinds, shall be guilty of a misdemeanor:

(1) Disorderly, contemptuous, or insolent behavior, committed during the sitting of the court, in its immediate view and presence, and directly tending to interrupt its proceedings, or to impair the respect due to its authority;

(2) Behavior of like character in the presence of a referee, while actually engaged in a trial or hearing, pursuant to an order of court, or in the presence of a jury while actually sitting for the trial of a cause, or upon an inquest or other proceeding authorized by law;

(3) Breach of the peace, noise, or other disturbance directly tending to interrupt the proceedings of a court, jury, or referee;

(4) Willful disobedience to the lawful process or other mandate of a court;

(5) Resistance willfully offered to its lawful process or other mandate;

(6) Contumacious and unlawful refusal to be sworn as a witness, or, after being sworn, to answer any legal and proper interrogatory;

(7) Publication of a false or grossly inaccurate report of its proceedings; or

(8) Willful failure to pay court-ordered child support when the obligor has the ability to pay.

No person shall be punished as herein provided for publishing a true, full, and fair report of a trial, argument, decision, or other proceeding had in court.

Sec. 50. Minnesota Statutes 1992, section 595.02, subdivision 1, is amended to read:

Subdivision 1. [COMPETENCY OF WITNESSES.] Every person of sufficient understanding, including a party, may testify in any action or proceeding, civil or criminal, in court or before any person who has authority to receive evidence, except as provided in this subdivision:

(a) A husband cannot be examined for or against his wife without her consent, nor a wife for or against her husband without his consent, nor can either, during the marriage or afterwards, without the consent of the other, be examined as to any communication made by one to the other during the marriage. This exception does not apply to a civil action or proceeding by one against the other, nor to a criminal action or proceeding for a crime committed by one against the other or against a child of either or against a child under the care of either spouse, nor to a criminal action or proceeding in which one is charged with homicide or an attempt to commit homicide and the date of the marriage of the defendant is subsequent to the date of the offense, nor to an action or proceeding for nonsupport, neglect, dependency, or termination of parental rights.

(b) An attorney cannot, without the consent of the attorney's client, be examined as to any communication made by the client to the attorney or the attorney's advice given thereon in the course of professional duty; nor can any employee of the attorney be examined as to the communication or advice, without the client's consent.

(c) An attorney employed by, under contract to, or representing a public authority in connection with a child support enforcement program cannot, without the consent of an individual applying for child support services or the consent of an AFDC recipient whose right to support has been assigned, be examined as to any communication made by the individual applicant or the AFDC recipient to the attorney, or communications made by the attorney to the individual applicant or the AFDC recipient in the course of the attorney's representation of the public authority in connection with a child support enforcement program; nor can an employee of the attorney be examined as to the communication, without the consent of the individual applicant or the AFDC recipient.

(e) (d) A member of the clergy or other minister of any religion shall not, without the consent of the party making the confession, be allowed to disclose a confession made to the member of the clergy or other minister in a professional character, in the course of discipline enjoined by the rules or practice of the religious body to which the member of the clergy or other minister belongs; nor shall a member of the clergy or other minister of any religion be examined as to any communication made to the member of the clergy or other minister by any person seeking religious or spiritual advice, aid, or comfort or advice given thereon in the course of the member of the clergy's or other minister's professional character, without the consent of the person.

(d) (e) A licensed physician or surgeon, dentist, or chiropractor shall not, without the consent of the patient, be allowed to disclose any information or any opinion based thereon which the professional acquired in attending the patient in a professional capacity, and which was necessary to enable the professional to act in that capacity; after the decease of the patient, in an action to recover insurance benefits, where the insurance has been in existence two years or more, the beneficiaries shall be deemed to be the personal representatives of the deceased person for the purpose of waiving this privilege, and no oral or written waiver of the privilege shall have any binding force or effect except when made upon the trial or examination where the evidence is offered or received.

(e) (f) A public officer shall not be allowed to disclose communications made to the officer in official confidence when the public interest would suffer by the disclosure.

(f) (g) Persons of unsound mind and persons intoxicated at the time of their production for examination are not competent witnesses if they lack capacity to remember or to relate truthfully facts respecting which they are examined.

(g) (h) A registered nurse, psychologist or consulting psychologist shall not, without the consent of the professional's client, be allowed to disclose any information or opinion based thereon which the professional has acquired in attending the client in a professional capacity, and which was necessary to enable the professional to act in that capacity.

(h) (i) An interpreter for a person handicapped in communication shall not, without the consent of the person, be allowed to disclose any communication if the communication would, if the interpreter were not present, be privileged. For purposes of this section, a "person handicapped in communication" means a person who, because of a hearing, speech or other communication disorder, or because of the inability to speak or comprehend the English language, is unable to understand the proceedings in which the person is required to participate. The presence of an interpreter as an aid to communication does not destroy an otherwise existing privilege.

(i) (j) Licensed chemical dependency counselors shall not disclose information or an opinion based on the information which they acquire from persons consulting them in their professional capacities, and which was necessary to enable them to act in that capacity, except that they may do so:

(1) when informed consent has been obtained in writing, except in those circumstances in which not to do so would violate the law or would result in clear and imminent danger to the client or others;

(2) when the communications reveal the contemplation or ongoing commission of a crime; or

(3) when the consulting person waives the privilege by bringing suit or filing charges against the licensed professional whom that person consulted.

(j) (k) A parent or the parent's minor child may not be examined as to any communication made in confidence by the minor to the minor's parent. A communication is confidential if made out of the presence of persons not members of the child's immediate family living in the same household. This exception may be waived by express consent to disclosure by a parent entitled to claim the privilege or by the child who made the communication or by failure of the child or parent to object when the contents of a communication are demanded. This exception does not apply to a civil action or proceeding by one spouse against the other or by a parent or child against the other, nor to a proceeding to commit either the child or parent to whom the communication was made or to place the person or property or either under the control of another because of an alleged mental or physical condition, nor to a criminal action or proceeding in which the parent is charged with a crime committed against the person or property of the communicating child, the parent's spouse, or a child of either the parent or the parent's spouse, or in which a child is charged with a crime or act of delinquency committed against the person or property of a parent or a child of a parent, nor to an action or proceeding for termination of parental rights, nor any other action or proceeding on a petition alleging child abuse, child neglect, abandonment or nonsupport by a parent.

(k) (l) Sexual assault counselors may not be compelled to testify about any opinion or information received from or about the victim without the consent of the victim. However, a counselor may be compelled to identify or disclose information in investigations or proceedings related to neglect or termination of parental rights if the court determines good cause exists. In determining whether to compel disclosure, the court shall weigh the public interest and need for disclosure against the effect on the victim, the treatment relationship, and the treatment services if disclosure occurs. Nothing in this clause exempts sexual assault counselors from compliance with the provisions of sections 626.556 and 626.557.

"Sexual assault counselor" for the purpose of this section means a person who has undergone at least 40 hours of crisis counseling training and works under the direction of a supervisor in a crisis center, whose primary purpose is to render advice, counseling, or assistance to victims of sexual assault.

(l) (m) A person cannot be examined as to any communication or document, including worknotes, made or used in the course of or because of mediation pursuant to an agreement to mediate. This does not apply to the parties in the dispute in an application to a court by a party to have a mediated settlement agreement set aside or reformed. A communication or document otherwise not privileged does not become privileged because of this paragraph. This paragraph is not intended to limit the privilege accorded to communication during mediation by the common law.

~~(m)~~ (n) A child under ten years of age is a competent witness unless the court finds that the child lacks the capacity to remember or to relate truthfully facts respecting which the child is examined. A child describing any act or event may use language appropriate for a child of that age.

Sec. 51. Minnesota Statutes 1992, section 609.375, subdivision 1, is amended to read:

Subdivision 1. Whoever is legally obligated to provide care and support to a spouse who is in necessitous circumstances, or child, whether or not its custody has been granted to another, and knowingly omits and fails without lawful excuse to do so is guilty of ~~nonsupport of the spouse or child, as the case may be a misdemeanor~~, and upon conviction thereof may be sentenced to imprisonment for not more than 90 days or to payment of a fine of not more than ~~\$300~~ \$700, or both.

Sec. 52. Minnesota Statutes 1992, section 609.375, subdivision 2, is amended to read:

Subd. 2. If the ~~knowing omission and failure without lawful excuse to provide care and support to a spouse, a minor child, or a pregnant wife~~ violation of subdivision 1 continues for a period in excess of 90 days the person is guilty of a ~~felony~~ gross misdemeanor and may be sentenced to imprisonment for not more than ~~five years~~ one year or to payment of a fine of not more than \$3,000, or both.

Sec. 53. [INCOME WITHHOLDING; SINGLE CHECK SYSTEM CENTRAL DEPOSITORY OR OTHER FISCAL AGENT.]

The commissioner of human services, in consultation with county child support enforcement agencies and other persons with relevant expertise, shall study and make recommendations on: (1) the feasibility of establishing a single check system under which employers who are implementing income withholding may make one combined payment for payments due to public authorities to one public authority or to the commissioner of human services; and (2) the feasibility of establishing a central depository or designating a fiscal agent for receipt of child support payments. The commissioner shall estimate the cost of the single check system and use of a central depository or fiscal agent and the level of fees that would be necessary to make them self-supporting. The commissioner shall report to the legislature by January 15, 1995.

Sec. 54. [ADMINISTRATIVE PROCESS FOR CHILD SUPPORT.]

The commissioner of human services, in consultation with the commissioner's advisory committee for child support enforcement, shall develop a plan to restructure the administrative process for setting, modifying, and enforcing child support under Minnesota Statutes, section 518.551, subdivision 10. The goal of the plan is to implement a state-administered administrative process that is informal, uniform throughout the state, and accessible to parties without counsel. The commissioner shall report to the legislature by January 15, 1994.

Sec. 55. [PURPOSE.]

The purpose of the amendment to Minnesota Statutes 1992, section 518.64, subdivision 2, paragraph (a), dealing with the presumption of a substantial change in circumstances and self-limited income, is to conform to Code of Federal Regulations, title 42, section 303.8(d)(2).

Sec. 56. [REPEALER.]

(a) Minnesota Statutes 1992, section 256.979, is repealed.

(b) Minnesota Statutes 1992, section 609.37, is repealed.

Sec. 57. [EFFECTIVE DATE; APPLICATION.]

(a) Except as otherwise provided in this section, this act is effective August 1, 1993.

(b) Sections 17, 18, and 29 apply to child support and medical support orders entered or modified on or after the effective date.

(c) Sections 49, 51, 52, and 56, paragraph (b), are effective August 1, 1993, and apply to crimes committed on or after that date.

(d) Sections 32 and 33 are effective January 1, 1994.

(e) The provisions of sections 46 and 48 extending the length of child support judgments from ten years to 20 years apply to judgments entered on or after the effective date."

Delete the title and insert:

"A bill for an act relating to human services; modifying provisions dealing with the administration, computation, and enforcement of child support; imposing penalties; amending Minnesota Statutes 1992, sections 136A.121, subdivision 2; 214.101, subdivision 1; 256.87, subdivisions 1, 1a, 3, and 5; 256.978; 256.979, by adding subdivisions; 256.9791, subdivisions 3 and 4; 257.66, subdivision 3; 257.67, subdivision 3; 518.14; 518.171, subdivisions 1, 2, 3, 4, 6, 7, 8, 10, and by adding a subdivision; 518.24; 518.54, subdivision 4; 518.551, subdivisions 1, 5, 5b, 7, 10, 12, and by adding a subdivision; 518.57, subdivision 1, and by adding a subdivision; 518.611, subdivision 4; 518.613, subdivision 1; 518.64, subdivisions 1, 2, 5, and 6; 519.11; 548.09, subdivision 1; 548.091, subdivisions 1a and 3a; 588.20; 595.02, subdivision 1; and 609.375, subdivisions 1 and 2; proposing coding for new law in Minnesota Statutes, chapters 256; and 518; repealing Minnesota Statutes 1992, sections 256.979; and 609.37."

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

The report was adopted.

Wenzel from the Committee on Agriculture to which was referred:

H. F. No. 1060, A bill for an act relating to agriculture; making technical changes in eligibility for certain rural finance authority loan programs; amending Minnesota Statutes 1992, sections 41B.03, subdivision 3; and 41C.05, subdivision 2.

Reported the same back with the following amendments:

Page 1, after line 6, insert:

"Section 1. Minnesota Statutes 1992, section 41B.02, is amended by adding a subdivision to read:

Subd. 1a. [AMORTIZED RESTRUCTURED LOAN.] "Amortized restructured loan" means a loan after it has been modified pursuant to section 41B.04, subdivision 9, paragraph (d).

Sec. 2. Minnesota Statutes 1992, section 41B.02, subdivision 7, is amended to read:

Subd. 7. [DEFERRED INTEREST.] "Deferred interest" means that portion of the interest on primary principal and secondary principal the payment of which is deferred for the term of the deferred restructured loan. The deferred interest on primary principal may accrue at a different rate from the deferred interest on secondary principal as described in section 41B.04.

Sec. 3. Minnesota Statutes 1992, section 41B.02, is amended by adding a subdivision to read:

Subd. 7a. [DEFERRED RESTRUCTURED LOAN.] "Deferred restructured loan" means a loan after it has been modified pursuant to section 41B.04, subdivision 9, paragraph (a).

Sec. 4. Minnesota Statutes 1992, section 41B.02, subdivision 12, is amended to read:

Subd. 12. [PRIMARY PRINCIPAL.] "Primary principal" means that portion of the outstanding balance on a loan covered by section 41B.04 that is equal to the current market value of the property secured by the loan or such lesser amount as may be established by the authority by rule.

Sec. 5. Minnesota Statutes 1992, section 41B.02, subdivision 14, is amended to read:

Subd. 14. [RESTRUCTURED LOAN.] "Restructured loan" means both a deferred restructured loan and an amortized restructured loan after it is modified pursuant to section 41B.04.

Sec. 6. Minnesota Statutes 1992, section 41B.02, subdivision 15, is amended to read:

Subd. 15. [SECONDARY PRINCIPAL.] "Secondary principal" means that portion of the outstanding balance of a deferred restructured loan covered by section 41B.04 that is in excess of the ~~current market value of the property secured by the loan~~ primary principal."

Page 2, line 9, delete "provides justification" and insert "has either a four-year degree in an agricultural program or certification as an adult farm management instructor"

Page 2, after line 12, insert:

"Sec. 8. Minnesota Statutes 1992, section 41B.04, subdivision 9, is amended to read:

Subd. 9. [RESTRUCTURED LOAN AGREEMENT.] (a) For a deferred restructured loan, all payments on the primary and secondary principal ~~of the restructured loan~~, all payments of interest on the secondary principal, and an agreed portion of the interest payable to the eligible agricultural lender on the primary principal must be deferred to the end of the term of the loan.

(b) ~~A borrower may prepay the restructured loan, with all primary and secondary principal and interest and deferred interest at any time without prepayment penalty.~~

(c) Interest on secondary principal must accrue at a below market interest rate.

(d) ~~(c)~~ At the conclusion of the term of the restructured loan, the borrower owes primary principal, secondary principal, and deferred interest on primary and secondary principal. However, part of this balloon payment may be forgiven following an appraisal by the lender and the authority to determine the current market value of the real estate subject to the mortgage. If the current market value of the land after appraisal is less than the amount of debt owed by the borrower to the lender and authority on this obligation, that portion of the obligation that exceeds the current market value of the real property must be forgiven by the lender and the authority in the following order:

- (1) deferred interest on secondary principal;
- (2) secondary principal;
- (3) deferred interest on primary principal;
- (4) primary principal as provided in an agreement between the authority and the lender; and
- (5) accrued but not deferred interest on primary principal.

(d) For an amortized restructured loan, there may only be primary principal and interest on the primary principal and an amortized restructured loan must be amortized over a time period and upon terms to be established by the authority by rule.

(e) A borrower may prepay the restructured loan, with all primary and secondary principal and interest and deferred interest at any time without prepayment penalty.

(e) (f) The authority may not participate in refinancing a restructured loan at the conclusion of the restructured loan.

Sec. 9. Minnesota Statutes 1992, section 41B.04, is amended by adding a subdivision to read:

Subd. 17. [APPLICATION AND ORIGINATION FEE.] The authority may impose a reasonable nonrefundable application fee for each application and an origination fee for each loan issued under the loan restructuring program. The origination fee is 1.5 percent of the authority's participation interest in the loan and the application fee is \$50. The authority may review the fees annually and make adjustments as necessary. The fees must be deposited in the state treasury and credited to a special account. Money in the account is appropriated to the commissioner for administrative expenses for the loan restructuring program.

Page 2, line 22, delete "or a general partnership" and insert a semicolon

Page 2, delete line 23

Page 2, line 31, delete "or of at least one of the partners if" and insert a semicolon

Page 2, delete line 32

Renumber the sections in sequence

Correct internal references

Delete the title and insert:

"A bill for an act relating to agriculture; making technical changes in eligibility for certain rural finance authority loan programs; amending Minnesota Statutes 1992, sections 41B.02, subdivisions 7, 12, 14, 15, and by adding subdivisions; 41B.03, subdivision 3; 41B.04, subdivision 9, and by adding a subdivision; and 41C.05, subdivision 2."

With the recommendation that when so amended the bill pass and be re-referred to the Committee on Environment and Natural Resources Finance.

The report was adopted.

Rice from the Committee on Economic Development, Infrastructure and Regulation Finance to which was referred:

H. F. No. 1081, A bill for an act relating to commerce; regulating collection agencies; modifying prohibited practices; requiring notification to the commissioner upon certain employee terminations; repealing inconsistent surety bond and term and fee rules; regulating credit services organizations; modifying registration and bond requirements; modifying enforcement powers; amending Minnesota Statutes 1992, sections 332.37; 332.54, subdivision 1, and by adding subdivisions; 332.55; and 332.59; proposing coding for new law in Minnesota Statutes, chapter 332; repealing Minnesota Rules, parts 2870.1300; and 2870.1600.

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

The report was adopted.

Reding from the Committee on Financial Institutions and Insurance to which was referred:

H. F. No. 1094, A bill for an act relating to insurance; regulating fees, data collection, coverages, notice provisions, enforcement provisions, the Minnesota joint underwriting association and the liquor liability assigned risk plan; enacting the NAIC model regulation relating to reporting requirements for licensees seeking to do business with certain unauthorized multiple employer welfare arrangements; making various technical changes; amending Minnesota Statutes 1992, sections 13.71, by adding subdivisions; 45.024, subdivision 2; 59A.12, by adding a subdivision; 60A.02, by adding a subdivision; 60A.03, subdivisions 5 and 6; 60A.052, subdivision 2; 60A.082; 60A.14, subdivision 1; 60A.19, subdivision 4; 60A.21, subdivision 2; 60C.22; 60K.06; 60K.14, subdivision 4; 60K.19, subdivision 8; 61A.02, subdivision 2; 61A.031; 61A.04; 61A.07; 61A.071; 61A.073; 61A.074, subdivision 1; 61A.08; 61A.09, subdivision 1; 61A.092, by adding a subdivision; 61A.12, subdivision 1; 62A.047; 62A.148; 62A.153; 62A.43, subdivision 4; 62E.19, subdivision 1; 62H.01; 62I.02; 62I.03; 62I.07; 65A.01, subdivision 1; 65A.29, subdivision 7; 65B.49, subdivision 3; 72A.20, by adding a subdivision; 72A.201, subdivision 9; 72A.41, subdivision 1; 72B.03, subdivision 1; 72B.04, subdivision 2; 176.181, subdivision 2; 340A.409, subdivisions 2 and 3; proposing coding for new law in Minnesota Statutes, chapter 45; 62A; 62H; repealing Minnesota Statutes 1992, sections 72A.45; 72B.07; Minnesota Rules, parts 2783.0010; 2783.0020; 2783.0030; 2783.0040; 2783.0050; 2783.0060; 2783.0070; 2783.0080; 2783.0090; and 2783.0100.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 1992, section 13.71, is amended by adding a subdivision to read:

Subd. 8. [INSPECTION FEES.] Notwithstanding section 13.03, the department of commerce may assess a charge or require a requesting person to pay a fee to inspect data if the department has been assessed a charge for retrieving the information by the statewide system.

Sec. 2. Minnesota Statutes 1992, section 13.71, is amended by adding a subdivision to read:

Subd. 9. [SOCIAL SECURITY NUMBERS.] The social security numbers of individuals are private data on individuals and shall not be disclosed.

Sec. 3. [45.015] [PROOF OF MAILING.]

In any provision of law related to the duties and responsibilities entrusted to the commissioner, and unless a different method is specified, when a person is required to provide notice or perform a similar act, this action may be accomplished by mail, and proof of mailing is sufficient to prove compliance with the requirement.

Sec. 4. [45.022] [FEES OTHER THAN EXAMINATION, LICENSING, AND LICENSE RENEWAL FEES.]

In connection with the administration of chapters 45 to 83, 155A, 309, 332, 359, and sections 326.83 to 326.98, where there is no other fee specified the commissioner of commerce shall charge a fee of \$20 to a person requesting licensing information or services that require the commissioner to produce documentation, including but not limited to: duplicate licenses, license histories, license transfers, name changes of licensees, license reactivations and reinstatement, and license certifications.

Sec. 5. Minnesota Statutes 1992, section 45.024, subdivision 2, is amended to read:

Subd. 2. [DELEGATION.] The commissioner of commerce may delegate to a deputy commissioner, assistant commissioner, or director the exercise of the commissioner's statutory powers and duties, including the authority to decide and issue final orders in contested cases, rulemaking proceedings, and other hearings held under chapter 14.

This delegation is in addition to, and does not in any way limit, the commissioner's authority to delegate pursuant to section 15.06, subdivision 6, or any other law.

Sec. 6. Minnesota Statutes 1992, section 59A.12, is amended by adding a subdivision to read:

Subd. 5. Whenever an insurer, after having been advised that an insurance policy has been financed by a premium finance agreement, returns an unearned premium on such a policy, the insurer shall deliver or mail to the policyholder a notice that includes the following information: the amount of premium paid, the term of the policy, the date coverage began and ceased, the amount of the unearned premium, the name of the party receiving the funds, and a statement of the obligation of the premium finance company to return within 30 days of receipt of the unearned premium any amount of the unearned premium in excess of the amount owed by the policyholder to the premium finance company.

Sec. 7. Minnesota Statutes 1992, section 60A.02, is amended by adding a subdivision to read:

Subd. 28. [GROUP INSURANCE.] "Group insurance" means that form of insurance coverage sponsored by:

(1) an employer covering not less than two employees and which may include the employees' dependents, consisting of husband, wife, children, and actual dependents residing in the household, written under a master policy issued to any employer, or group of employers who have joined into an arrangement for the purposes of providing the employees insurance for their individual benefit. Employees' dependents, consisting of husband, wife, children, and actual dependents residing in the same household, are not employees for purposes of this definition except for a spouse employed on a regular full-time basis by the same employer. This clause does not apply to chapter 62L;

(2) an association to provide insurance to its members; or

(3) a creditor to provide life insurance to insure its debtors in connection with real estate mortgage loans, in an amount not to exceed the actual or scheduled amount of their indebtedness.

Sec. 8. Minnesota Statutes 1992, section 60A.03, subdivision 5, is amended to read:

Subd. 5. [EXAMINATION FEES AND EXPENSES.] When any visitation, examination, or appraisal is made by order of the commissioner, or when a desk audit is conducted, the company being examined, visited, audited, or appraised, including, but not limited to, fraternal, township mutuals, reciprocal exchanges, nonprofit service plan corporations, health maintenance organizations, vendors of risk management services licensed under section 60A.23, or self-insurance plans or pools established under section 176.181 or 471.982, shall pay to the department of commerce the necessary expenses of the persons engaged in the examination, visit, appraisal, or desk audits of annual statements and records performed by the department other than on the company premises plus the per diem salary fees of the employees of the department of commerce who are conducting or participating in the examination, visitation, appraisal, or desk audit. The per diem salary fees may be based upon the approved examination fee schedules of the National Association of Insurance Commissioners or otherwise determined by the commissioner. All of these fees and expenses must be paid into the department of commerce revolving fund.

Sec. 9. Minnesota Statutes 1992, section 60A.03, subdivision 6, is amended to read:

Subd. 6. [EXAMINATION REVOLVING FUND.] (1) [REVOLVING FUND CREATED.] There is hereby created the department of commerce examination revolving fund for the purpose of carrying on the examination of foreign and domestic insurance companies.

(2) [MONEY IN REVOLVING FUND.] Such fund shall consist of the \$7,500 appropriated therefor and the money transferred to it as herein provided, which are reappropriated to the commissioner of commerce for the purpose of this subdivision.

(3) [FUND TO BE KEPT IN STATE TREASURY.] Such fund shall be kept in the state treasury and shall be paid out in the manner prescribed by law for money therein.

(4) [PURPOSES FOR WHICH FUND MAY BE EXPENDED.] Such fund shall be used for the payment of per diem salaries and expenses of special examiners and appraisers, and the expenses of the commissioner of commerce, deputy commissioner of commerce, chief examiner, actuary other than a consulting actuary appointed under subdivision 3, clause (3) hereof, regular salaried examiners and other employees of the department of commerce when participating in examinations. Expenses include meals, lodging, laundry, transportation, and mileage, and other examination-related fees and expenses. The salary of regular employees of the division of insurance shall not be paid out of this fund.

(5) [COLLECTIONS TO BE DEPOSITED IN FUND.] All money collected by the division of insurance from insurance companies for fees and expenses of examinations, shall be deposited in the insurance division examination revolving fund.

(6) [PAYMENTS FROM SUCH FUND.] Upon authorization by the commissioner of commerce, the money due each examiner or employee engaged in an examination shall be paid from the insurance division examination revolving fund in the manner prescribed by law.

(7) [EXCESS OVER \$25,000 CANCELED INTO GENERAL FUND.] The balance in such fund on June 30 of each year in excess of \$25,000 shall be forthwith canceled into the general fund.

Sec. 10. Minnesota Statutes 1992, section 60A.052, subdivision 2, is amended to read:

Subd. 2. [SUMMARY SUSPENSION OR REVOCATION OF AUTHORITY OR CENSURE.] If the commissioner determines that one of the conditions listed in subdivision 1 exists, the commissioner may issue an order requiring the insurance company to show cause why any or all of the following should not occur: (1) revocation or suspension of any or all certificates of authority granted to the foreign or domestic insurance company or its agent; (2) censuring of the insurance company; or (3) the imposition of a civil penalty. The order shall be calculated to give reasonable notice of the time and place for hearing thereon, and shall state the reasons for the entry of the order. The commissioner may by order summarily suspend or revoke a certificate pending final determination of any order to show cause. If a certificate is suspended or revoked pending final determination of an order to show cause, a hearing on the merits shall be held within 30 days of the issuance of the summary order. All hearings shall be conducted in accordance with chapter 14. The insurer or the insurance department of the insurer's state of domicile, if the insurer is under the supervision or control of the insurance department of the insurer's state of domicile acting on behalf of the insurer may waive its right to the hearing. After the hearing, the commissioner shall enter an order disposing of the matter as the facts require. If the insurance company fails to appear at a hearing after having been duly notified of it, the company shall be considered in default, and the proceeding may be determined against the company upon consideration of the order to show cause, the allegations of which may be considered to be true.

Sec. 11. Minnesota Statutes 1992, section 60A.082, is amended to read:

60A.082 [GROUP INSURANCE; BENEFITS CONTINUED IF INSURER CHANGED.]

A person covered under group life, group accidental death and dismemberment, group disability income or group medical expense insurance, shall not be denied benefits to which the person is otherwise entitled solely because of a change in the insurance company writing the coverage or in the group contract applicable to the person. In the case of one or more carriers replacing or remaining in place after one or more plans have been discontinued, each carrier shall accept any person who was covered under the discontinued plan or plans without denial of benefits to which other persons in the group covered by that carrier are entitled. "Insurance company" shall include a service plan corporation under chapter 62C or 62D.

For purposes of satisfying any preexisting condition limitation, the insurance company shall credit the period of time the person was covered by the prior plan, if the person has maintained continuous coverage.

The commissioner shall promulgate rules to carry out this section. Nothing in this section shall preclude an employer, union or association from reducing the level of benefits under any group insurance policy or plan.

Sec. 12. Minnesota Statutes 1992, section 60A.085, is amended to read:

60A.085 [CANCELLATION OF GROUP COVERAGE; NOTIFICATION TO COVERED PERSONS.]

(a) No cancellation of any group life, group accidental death and dismemberment, group disability income, or group medical expense policy, plan, or contract is effective unless the insurer has made a good faith effort to notify all covered persons of the cancellation at least 30 days before the effective cancellation date. For purposes of this section, an insurer has made a good faith effort to notify all covered persons if the insurer has notified all the persons included on the list required by paragraph (b) at the home address given and only if the list has been updated within the last 12 months.

(b) At the time of the application for coverage subject to paragraph (a), the insurer shall obtain an accurate list of the names and home addresses of all persons to be covered. ~~The insurer shall obtain an update of the list at least once during each subsequent 12-month period while the policy, plan, or contract is in force.~~

(c) Paragraph (a) shall not apply if the group policy, plan, or contract is replaced by a substantially similar policy, plan, or contract.

Sec. 13. Minnesota Statutes 1992, section 60A.14, subdivision 1, is amended to read:

Subdivision 1. [FEES OTHER THAN EXAMINATION FEES.] In addition to the fees and charges provided for examinations, the following fees must be paid to the commissioner for deposit in the general fund:

(a) by township mutual fire insurance companies:

(1) for filing certificate of incorporation \$25 and amendments thereto, \$10;

(2) for filing annual statements, \$15;

(3) for each annual certificate of authority, \$15;

(4) for filing bylaws \$25 and amendments thereto, \$10.

(b) by other domestic and foreign companies including fraternal and reciprocal exchanges:

(1) for filing certified copy of certificate of articles of incorporation, \$100;

(2) for filing annual statement, \$225;

(3) for filing certified copy of amendment to certificate or articles of incorporation, \$100;

(4) for filing bylaws, \$75 or amendments thereto, \$75;

(5) for each company's certificate of authority, \$575, annually.

(c) the following general fees apply:

(1) for each certificate, including certified copy of certificate of authority, renewal, valuation of life policies, corporate condition or qualification, \$25;

(2) for each copy of paper on file in the commissioner's office 50 cents per page, and \$2.50 for certifying the same;

(3) for license to procure insurance in unadmitted foreign companies, \$575;

~~(4) for receiving and forwarding each notice, proof of loss, summons, complaint or other process served upon the commissioner of commerce, as attorney for service of process upon any nonresident agent or insurance company, including reciprocal exchanges, \$15 plus the cost of effectuating service by certified mail, which amount must be paid by the party serving the notice and may be taxed as other costs in the action;~~

~~(5)~~ for valuing the policies of life insurance companies, one cent per \$1,000 of insurance so valued, provided that the fee shall not exceed \$13,000 per year for any company. The commissioner may, in lieu of a valuation of the policies of any foreign life insurance company admitted, or applying for admission, to do business in this state, accept a certificate of valuation from the company's own actuary or from the commissioner of insurance of the state or territory in which the company is domiciled;

~~(6)~~ (5) for receiving and filing certificates of policies by the company's actuary, or by the commissioner of insurance of any other state or territory, \$50;

~~(7) for issuing an initial license to an individual agent, \$30 per license, for issuing an initial agent's license to a partnership or corporation, \$100, and for issuing an amendment (variable annuity) to a license, \$50, and for renewal of amendment, \$25;~~

~~(8)~~ (6) for each appointment of an agent filed with the commissioner, a domestic insurer shall remit \$5 and all other insurers shall remit \$3;

~~(9) for renewing an individual agent's license, \$30 per year per license, and for renewing a license issued to a corporation or partnership, \$60 per year;~~

(10) for issuing and renewing a surplus lines agent's license, \$250;

(11) for issuing duplicate licenses, \$10;

~~(12) for issuing licensing histories, \$20;~~

(13) (7) for filing forms and rates, \$50 per filing;

(14) (8) for annual renewal of surplus lines insurer license, \$300.

The commissioner shall adopt rules to define filings that are subject to a fee.

Sec. 14. Minnesota Statutes 1992, section 60A.19, subdivision 4, is amended to read:

Subd. 4. [FEES SERVICE OF PROCESS.] ~~The commissioner shall be entitled to charge and receive a fee prescribed by section 60A.14, subdivision 1, paragraph (c), clause (4), for each notice, proof of loss, summons, or other process served under the provisions of this subdivision and subdivision 3, to be paid by the persons serving the same. The service of process authorized by this section shall be made in compliance with section 45.028, subdivision 2.~~

Sec. 15. Minnesota Statutes 1992, section 60A.206, subdivision 3, is amended to read:

Subd. 3. [STANDARDS TO BE MET BY INSURERS.] (a) The commissioner shall recognize the insurer as an eligible surplus lines insurer when satisfied that the insurer is in a stable, unimpaired financial condition and that the insurer is qualified to provide coverage in compliance with sections 60A.195 to 60A.209. If filed with full supporting documentation before July 1 of any year, applications submitted under subdivision 2 shall be acted upon by the commissioner before December 31 of the year of submission.

(b) The commissioner shall not authorize an insurer as an eligible surplus lines insurer unless the insurer continuously maintains capital and surplus of at least \$3,000,000 and transaction of business by the insurer is not hazardous, financially or otherwise, to its policyholders, its creditors, or the public. Each alien surplus lines insurer shall have current financial data filed with the National Association of Insurance Commissioners Nonadmitted Insurers Information Office.

(c) Eligible surplus lines insurers domiciled within the United States shall file an annual statement and an annual financial audit, under the terms and conditions of section 60A.13, subdivisions 1, 3a, and 6, and are subject to the penalties of section 72A.061, and are subject to section 60A.03, subdivision 5, in regard to those requirements. The commissioner also has the powers provided in section 60A.13, subdivision 2, in regard to eligible surplus lines insurers.

(d) Eligible surplus lines insurers domiciled outside the United States shall file an annual statement on the standard nonadmitted insurers information office financial reporting format as prescribed by the National Association of Insurance Commissioners and an annual financial audit performed by an independent accounting firm.

Sec. 16. Minnesota Statutes 1992, section 60A.21, subdivision 2, is amended to read:

Subd. 2. [SERVICE OF PROCESS UPON UNAUTHORIZED INSURER.] (1) Any of the following acts in this state effected by mail or otherwise by an unauthorized foreign or alien insurer: (a) the issuance or delivery of contracts of insurance to residents of this state or to corporations authorized to do business therein; (b) the solicitation of applications for such contracts; (c) the collection of premiums, membership fees, assessments, or other considerations for such contracts; or (d) any other transaction of insurance business, is equivalent to and shall constitute an appointment by such insurer of the commissioner of commerce and the commissioner's successor or successors in office to be its true and lawful attorney upon whom may be served all lawful process in any action, suit, or proceeding instituted by or on behalf of an insured or beneficiary arising out of any such contract of insurance and any such act shall be signification of its agreement that such service of process is of the same legal force and validity as personal service of process in this state upon such insurer.

(2) Such service of process shall be made in compliance with section 45.028, subdivision 2 ~~and the payment of a filing fee as prescribed by section 60A.14, subdivision 1, paragraph (c), clause (4).~~

(3) Service of process in any such action, suit, or proceeding shall in addition to the manner provided in clause (2) of this subdivision be valid if served upon any person within this state who, in this state on behalf of such insurer, is: (a) soliciting insurance, or (b) making, issuing, or delivering any contract of insurance, or (c) collecting or receiving any premium, membership fee, assessment, or other consideration for insurance; and if a copy of such process is sent within ten days thereafter by certified mail by the plaintiff or plaintiff's attorney to the defendant at the last known principal place of business of the defendant and the defendant's receipt, or the receipt issued by the post office with which the letter is certified showing the name of the sender of the letter and the name and address of the person to whom the letter is addressed, and the affidavit of the plaintiff or plaintiff's attorney showing a compliance herewith are filed with the administrator of the court in which such action is pending on or before the date the defendant is required to appear or within such further time as the court may allow.

(4) No plaintiff or complainant shall be entitled to a judgment by default under this subdivision until the expiration of 30 days from the date of the filing of the affidavit of compliance.

(5) Nothing in this subdivision contained shall limit or abridge the right to serve any process, notice, or demand upon any insurer in any other manner now or hereafter permitted by law.

(6) The provisions of this section shall not apply to surplus line insurance lawfully effectuated under Minnesota law, or to reinsurance, nor to any action or proceeding against an unauthorized insurer arising out of:

- (a) Wet marine and transportation insurance;
- (b) Insurance on or with respect to subjects located, resident, or to be performed wholly outside this state, or on or with respect to vehicles or aircraft owned and principally garaged outside this state;
- (c) Insurance on property or operations of railroads engaged in interstate commerce; or

(d) Insurance on aircraft or cargo of such aircraft, or against liability, other than employer's liability, arising out of the ownership, maintenance, or use of such aircraft, where the policy or contract contains a provision designating the commissioner as its attorney for the acceptance of service of lawful process in any action or proceeding instituted by or on behalf of an insured or beneficiary arising out of any such policy, or where the insurer enters a general appearance in any such action.

Sec. 17. [60A.285] [RECORDS RETENTION.]

An insurer shall retain copies of all underwriting documents, policy forms, and applications for three years from the effective date of the policy. This subdivision does not relieve the insurer of its obligation to produce these documents to the department after the retention period has expired in connection with an enforcement action or administrative proceeding against the insurer from whom the documents are requested, if the insurer has retained the documents. Records required to be retained by this section may be retained in paper, photograph, microprocess, magnetic, mechanical, or electronic media, or by any process which accurately reproduces or forms a durable medium for the reproduction of a record.

Sec. 18. Minnesota Statutes 1992, section 60A.36, is amended by adding a subdivision to read:

Subd. 5. [RESCISSION.] (a) No insurer may rescind or void a contract of liability or property insurance unless there was material misrepresentation, omission, or fraud made by or with the knowledge of the insured in obtaining the contract or in pursuing a claim under the policy.

(b) No misrepresentation shall be material unless knowledge by the insurer of the facts misrepresented or omitted would have led to a refusal by the insurer to make such a contract. In determining the question of materiality, evidence of the practice of the insurer with respect to the acceptance or rejection of similar risks shall be admissible.

(c) For purposes of this section, a representation is a statement as to past or present fact, made to an insurer or the insurer's agent by the applicant as an inducement for issuing a contract of commercial liability or property insurance. A misrepresentation is a false representation, and the facts misrepresented are those facts which make the representation false.

(d) This does not limit the right to cancel the policy prospectively for failure to disclose a condition.

Sec. 19. Minnesota Statutes 1992, section 60C.22, is amended to read:

60C.22 [NOTICE FOR POLICY OR CONTRACT NOT COVERED.]

A policy or contract not covered by the Minnesota Life and Health Insurance Guaranty Association or the Minnesota Insurance Guaranty Association must contain the following notice in 10-point type, stamped in red ink on the policy or contract and the application:

"THIS POLICY OR CONTRACT IS NOT PROTECTED BY THE MINNESOTA LIFE AND HEALTH INSURANCE GUARANTY ASSOCIATION OR THE MINNESOTA INSURANCE GUARANTY ASSOCIATION. IN THE CASE OF INSOLVENCY, PAYMENT OF CLAIMS IS NOT GUARANTEED. ONLY THE ASSETS OF THIS INSURER WILL BE AVAILABLE TO PAY YOUR CLAIM."

This section does not apply to fraternal benefit societies regulated under chapter 64B.

Sec. 20. Minnesota Statutes 1992, section 60K.06, is amended to read:

60K.06 [RENEWAL FEE FEES.]

Subdivision 1. [RENEWAL FEES.] (a) Each agent licensed pursuant to section 60K.03 shall annually pay in accordance with the procedure adopted by the commissioner a renewal fee as prescribed by section 60A.14, subdivision 1, paragraph (c), clause (10) 2.

(b) Every agent, corporation, and partnership license expires on October 31 of the year for which period a license is issued.

(c) Persons whose applications have been properly and timely filed who have not received notice of denial of renewal are approved for renewal and may continue to transact business whether or not the renewed license has been received on or before November 1. Applications for renewal of a license are timely filed if received by the commissioner on or before October 15 of the year due, on forms duly executed and accompanied by appropriate fees. An application mailed is considered timely filed if addressed to the commissioner, with proper postage, and postmarked by October 15.

~~(d) The commissioner may issue licenses for agents, corporations, or partnerships for a three year period. If three year licenses are issued, the fee is three times the annual license fee.~~

Subd. 2. [LICENSING FEES.] (a) In addition to the fees and charges provided for examinations, each agent licensed pursuant to section 60K.03 shall pay to the commissioner:

- (1) for issuing an initial license to an individual agent, \$30 per year;
- (2) for issuing an initial agent's license to a partnership or corporation, \$100 per year;
- (3) for issuing an amendment (variable annuity) to a license, \$50 per year;
- (4) for renewing an amendment, \$25 per year;
- (5) for renewing an individual agent's license, \$30 per year;
- (6) for renewing a license issued to a corporation or partnership, \$60 per year;
- (7) for issuing and renewing a surplus lines agent's license, \$250 per year;
- (8) for issuing duplicate licenses, \$10.
- (b) Every agent, corporation, and partnership license expires on October 31.

(c) Persons whose applications have been properly and timely filed who have not received notice of denial of renewal are approved for renewal and may continue to transact business whether or not the renewed license has been received on or before November 1. Applications for renewal of a license are timely filed if received by the commissioner on or before October 15 of the year due, on forms duly executed and accompanied by appropriate fees. An application mailed is considered timely filed if addressed to the commissioner, with proper postage, and postmarked by October 15.

(e) All fees shall be retained by the commissioner and shall be nonreturnable, except that an overpayment of any fee shall be the subject of a refund upon proper application.

Sec. 21. Minnesota Statutes 1992, section 60K.14, subdivision 4, is amended to read:

Subd. 4. [SUITABILITY OF INSURANCE.] In recommending the purchase of any life, endowment, individual accident and sickness, long-term care, annuity, life-endowment, or Medicare supplement insurance to a customer, an agent must have reasonable grounds for believing that the recommendation is suitable for the customer and must make reasonable inquiries to determine suitability. The suitability of a recommended purchase of insurance will be determined by reference to the totality of the particular customer's circumstances, including, but not limited to, the customer's income, the customer's need for insurance, and the values, benefits, and costs of the customer's existing insurance program, if any, when compared to the values, benefits, and costs of the recommended policy or policies.

Sec. 22. Minnesota Statutes 1992, section 60K.19, subdivision 5, is amended to read:

Subd. 5. [POWERS OF THE ADVISORY TASK FORCE.] (a) Applications for approval of individuals responsible for monitoring course offerings must be submitted to the commissioner on forms prescribed by the commissioner and must be accompanied by a fee of not more than \$100 payable to the state of Minnesota for deposit in the general fund. A fee of \$10 \$20 for each hour or fraction of one hour of course approval sought must be forwarded with the application for course approval. If the advisory task force is created, it shall make recommendations to the commissioner regarding the accreditation of courses sponsored by institutions, both public and private, which satisfy the criteria established by this section, the number of credit hours to be assigned to the courses, and rules which may be promulgated by the commissioner. The advisory task force shall seek out and encourage the presentation of courses.

(b) If the advisory task force is created, it shall make recommendations and provide subsequent evaluations to the commissioner regarding procedures for reporting compliance with the minimum education requirement.

(c) The advisory task force shall recommend the approval or disapproval of professional designation examinations that meet the criteria established by this section and the number of continuing education credit hours to be awarded for passage of the examination. In order to be approved, a professional designation examination must:

- (1) lead to a recognized insurance or financial planning professional designation used by agents; and
- (2) conclude with a written examination that is proctored and graded.

Sec. 23. Minnesota Statutes 1992, section 61A.02, subdivision 2, is amended to read:

Subd. 2. [APPROVAL REQUIRED.] No policy or certificate of life insurance or annuity issued to a group, or multiple employer trust, nor any rider of any kind or description which is made a part thereof shall be issued or delivered in this state, or be issued by a life insurance company organized under the laws of this state, until the form of the same has been approved by the commissioner. In making a determination under this section, the commissioner may require the insurer to provide rates and advertising materials related to policies, certificates, or similar evidence of coverage issued or delivered in this state.

This section applies to a policy, certificate of insurance, or similar evidence of coverage to a Minnesota resident or issued to provide coverage to a Minnesota resident. This section shall not apply to a certificate of insurance or similar evidence of coverage which meets the conditions of section 61A.093, subdivision 2.

Sec. 24. Minnesota Statutes 1992, section 61A.031, is amended to read:

61A.031 [SUICIDE PROVISIONS.]

The sanity or insanity of a person shall not be a factor in determining whether a person committed suicide within the terms of an individual or group life insurance policy or annuity regulating the payment of benefits in the event of the insured's suicide. This section shall not be construed to alter present law but is intended to clarify present law.

Sec. 25. Minnesota Statutes 1992, section 61A.04, is amended to read:

61A.04 [SPENDTHRIFT PROVISIONS.]

In addition to the provisions now required by law to be in the standard form of life insurance policies or annuities issued or delivered in this state, there shall be, when such policy provides for the payment to the beneficiary the proceeds thereof, in either monthly, quarterly, semiannual or annual installments, to continue during the lifetime of the beneficiary, or for a stipulated number of years, whenever requested by the insured under the policy or owner of the annuity, the following provisions:

All rights of the beneficiary to commute, change time of payment or amount of installments, surrender for cash, borrow against or assign for any purpose, are hereby withdrawn and those parts of this policy giving the beneficiary such rights are hereby declared inoperative and void; it being the intent hereof that the beneficiary shall have no right under this contract except to receive the installments at such times and in such amounts as stated in this policy, and all the provisions of this policy in conflict herewith are hereby declared to be inoperative.

This provision may be attached to any policy in the form of a rider thereon, and, when so attached, shall become a part of and form a part of the contract of insurance, evidenced by the policy to all intents and purposes as if set forth at length therein.

Sec. 26. Minnesota Statutes 1992, section 61A.07, is amended to read:

61A.07 [PROHIBITED PROVISIONS.]

No policy of life insurance shall be issued or delivered in this state, or be issued by a life insurance company organized under the laws of this state, if it contains a provision:

(1) for forfeiture of the policy for failure to repay any loan on the policy or to pay interest on such loan while the total indebtedness on the policy is less than the loan value thereof; or for forfeiture for failure to repay any such loan or to pay interest thereon, unless such provision contain a stipulation that no such forfeiture shall occur until at least one month after notice shall have been mailed by the company to the last known address of the insured and of the assignee, if any, notice of whose address and contract of the assignment has been filed with the company, at its home office; or

(2) in a life or annuity policy, limiting the time within which any action at law or in equity may be commenced to less than five years after the cause of action shall accrue; or

(3) by which the policy shall purport to be issued or to take effect more than six months before the original application for the insurance was made; or

(4) for any mode of settlement at maturity of less value than the amount insured on the face of the policy plus any dividend additions, less any indebtedness to the company on the policy, and less any premium that may be deducted by the terms of the policy.

Sec. 27. Minnesota Statutes 1992, section 61A.071, is amended to read:

61A.071 [APPLICATIONS.]

No individual life insurance policy, ~~except mass-marketed life insurance as defined in section 72A.13, subdivision 2~~ except life insurance marketed on a direct responses basis, shall be issued or delivered in this state to a person age 65 or older unless a signed and completed copy of the application for insurance is left with the applicant at the time application is made. However, where an individual life policy is marketed on a direct response basis, a copy of any application signed by the applicant shall be delivered to the insured along with, or as part of, the policy.

Sec. 28. Minnesota Statutes 1992, section 61A.073, is amended to read:

61A.073 [LIFE INSURANCE AND ANNUITIES FOR THE BENEFIT OF CHARITY.]

Subdivision 1. [CHARITABLE BENEFICIARY OR OWNER PERMITTED.] Subject to the terms of the policy, an organization described in section 170(c) of the Internal Revenue Code of 1986, as amended through December 31, 1991, shall have an insurable interest in the life of an individual insured under a life insurance policy or annuity, if the organization:

(1) has become the beneficiary or owner of a previously issued policy insuring the life of the individual; or

(2) is the original beneficiary or original owner of a newly issued policy insuring the life of the individual, if the individual signs the application or consents in writing to the issuance of the policy.

Subd. 2. [APPLICABILITY.] This section applies to life insurance policies and annuities issued by life companies and fraternal benefit societies.

Sec. 29. Minnesota Statutes 1992, section 61A.074, subdivision 1, is amended to read:

Subdivision 1. [CORPORATION OR TRUSTEE.] A corporation or the trustee of a trust providing life, annuity, health, disability, retirement, or similar benefits to employees of one or more corporations, and acting in a fiduciary capacity with respect to the employees, retired employees, or their dependents or beneficiaries, has an insurable interest in the lives of employees for whom the benefits are to be provided. The written consent of the insured is required if the insurance purchased under this subdivision is payable to the corporation or to the trustee.

Sec. 30. Minnesota Statutes 1992, section 61A.08, is amended to read:

61A.08 [EXCEPTIONS.]

Sections 61A.02, 61A.03, 61A.07, 61A.23, and 61A.25 shall not, except as expressly provided in this chapter, apply to ~~annuities, industrial or group term policies, or to corporations or associations operating on the assessment or fraternal plan, and in every case where a contract provides for both insurance and annuities, sections 61A.02, 61A.03 and 61A.07 shall apply only to that part of the contract which provides for insurance,~~ but every contract issued prior to the operative date specified in section 61A.245 containing a provision for a deferred annuity on the life of the insured only, unless paid for by a single premium, shall provide that, in event of the nonpayment of any premium after three full years' premium shall have been paid, the annuity shall automatically become converted into a paid-up annuity for that proportion of the original annuity as the number of completed years' premiums paid bears to the total number of premiums required under the contract.

Sec. 31. Minnesota Statutes 1992, section 61A.09, subdivision 1, is amended to read:

Subdivision 1. No group life insurance policy or annuity shall be issued for delivery in this state until the form thereof and the form of any certificates issued thereunder have been filed in accordance with and subject to the provisions of section 61A.02. Each person insured under such a group life insurance policy (excepting policies which insure the lives of debtors of a creditor or vendor to secure payment of indebtedness) shall be furnished a certificate of insurance issued by the insurer and containing the following:

- (a) Name and location of the insurance company;
- (b) A statement as to the insurance protection to which the certificate holder is entitled, including any changes in such protection depending on the age of the person whose life is insured;
- (c) Any and all provisions regarding the termination or reduction of the certificate holder's insurance protection;
- (d) A statement that the master group policy may be examined at a reasonably accessible place;
- (e) The maximum rate of contribution to be paid by the certificate holder;
- (f) Beneficiary and method required to change such beneficiary;
- (g) In the case of a group term insurance policy if the policy provides that insurance of the certificate holder will terminate, in case of a policy issued to an employer, by reason of termination of the certificate holder's employment, or in case of a policy issued to an organization of which the certificate holder is a member, by reason of termination of membership, a provision to the effect that in case of termination of employment or membership, or in case of termination of the group policy, the certificate holder shall be entitled to have issued by the insurer, without evidence of insurability, upon application made to the insurer within 31 days after ~~the termination of employment or membership~~, and upon payment of the premium applicable to the class of risk to which that person belongs and to the form and amount of the policy at that person's then attained age, a policy of life insurance only, in any one of the forms customarily issued by the insurer except term insurance, in an amount equal to the amount of the life insurance protection under such group insurance policy at the time of such termination; and shall contain a further provision to the effect that upon the death of the certificate holder during such 31-day period and before any such individual policy has become effective, the amount of insurance for which the certificate holder was entitled to make application shall be payable as a death benefit by the insurer.

This section applies to a policy, certificate of insurance, or similar evidence of coverage to a Minnesota resident or issued to provide coverage to a Minnesota resident. This section shall not apply to a certificate of insurance or similar evidence of coverage which meets the conditions of section 61A.093, subdivision 2.

Sec. 32. Minnesota Statutes 1992, section 61A.092, is amended by adding a subdivision to read:

Subd. 6. [APPLICATION.] This section applies to a policy, certificate of insurance, or similar evidence of coverage to a Minnesota resident or issued to provide coverage to a Minnesota resident. This section shall not apply to a certificate of insurance or similar evidence of coverage which meets the conditions of section 61A.093, subdivision 2.

Sec. 33. [61A.093] [CERTIFICATE OF INSURANCE.]

Subdivision 1. A certificate of insurance or similar evidence of coverage issued to a Minnesota resident shall provide coverage for all benefits required to be covered in group policies in Minnesota by this chapter.

This subdivision supersedes any inconsistent provision of this chapter.

A policy of life insurance that is issued or delivered in this state and that covers a person residing in another state may provide coverage or contain provisions that are less favorable to that person than required by this chapter. Less favorable coverages or provisions must meet the requirements that the state in which the person resides would have required had the policy been issued or delivered in that state.

Subd. 2. Subdivision 1 does not apply to certificates issued in regard to a master policy issued outside the state of Minnesota if all of the following are true:

- (1) the policyholder or certificate holder exists primarily for purposes other than to obtain insurance;
- (2) the policyholder or certificate holder is not a Minnesota corporation and does not have its principal office in Minnesota;
- (3) the policy or certificate covers fewer than 25 persons who are residents of Minnesota and the Minnesota residents represent less than 25 percent of all covered persons; and
- (4) on request of the commissioner, the issuer files with the commissioner a copy of the policy and a copy of each form of certificate.

Subd. 3. Section 60A.08, subdivision 4, shall not be construed as requiring a certificate of insurance or similar evidence of insurance that meets the conditions of subdivision 2 to comply with this chapter.

Sec. 34. Minnesota Statutes 1992, section 61A.12, subdivision 1, is amended to read:

Subdivision 1. [PROCEEDS OF LIFE POLICY OR ANNUITY, WHO ENTITLED TO.] When any insurance is effected in favor of another, the beneficiary shall be entitled to its proceeds against the creditors and representatives of the person effecting the same. All premiums paid for insurance in fraud of creditors, with interest thereon, shall inure to their benefit from the proceeds of the policy, if the company be specifically notified thereof, in writing, before payment.

Sec. 35. Minnesota Statutes 1992, section 61A.282, subdivision 2, is amended to read:

Subd. 2. [LENDING OF SECURITIES.] A company may loan securities held by it under this chapter to a broker-dealer registered under the Securities and Exchange Act of 1934 or to a bank which is a member of the Federal Reserve System, under the following conditions:

(a) The market value of loaned securities outstanding at any one time, excluding securities held in a separate account established pursuant to section 61A.14, subdivision 1, or 61A.275, shall not exceed 50 percent of the company's capital and surplus 40 percent of the company's admitted assets as of the December 31 immediately preceding.

(b) The company is limited to no more than two percent of its admitted assets as of the December 31 immediately preceding being subject to lending of securities with any one borrower.

(c) Each loan must be evidenced by a written agreement which provides:

(a) (1) that the loan will be fully collateralized by cash or obligations issued or guaranteed by the United States or an agency or an instrumentality thereof, and that the collateral will be adjusted each business day during the term of the loan to maintain the required collateral in the event of market value changes in the loaned securities or collateral;

(b) (2) that the loan may be terminated by the company at any time, and that the borrower must return the loaned securities or their equivalent within five business days after termination;

(e) (3) that the company has the right to retain the collateral or to use the collateral to purchase securities equivalent to the loaned securities if the borrower defaults under the terms of the agreement; and

(d) (4) that the borrower remains liable for any losses and expenses, not covered by the collateral, which are incurred by the company due to default.

Sec. 36. Minnesota Statutes 1992, section 62A.047, is amended to read:

62A.047 [CHILDREN'S HEALTH SUPERVISION SERVICES AND PRENATAL CARE SERVICES.]

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, issued, renewed, or continued to provide coverage to a Minnesota resident, must provide coverage for child health supervision services and prenatal care services. The policy, contract, or certificate must specifically exempt reasonable and customary charges for child health supervision services and 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 policy 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 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 24 months to 72 months.

"Prenatal care services" means the comprehensive package of medical and psychosocial support provided throughout the pregnancy, including risk assessment, serial surveillance, prenatal education, and use of specialized skills and technology, when needed, as defined by Standards for Obstetric-Gynecologic Services issued by the American College of Obstetricians and Gynecologists.

Sec. 37. [62A.105] [COVERAGES; TRANSFERS TO SUBSTANTIALLY SIMILAR PRODUCTS.]

Subdivision 1. [SCOPE.] No individual policy of accident and sickness regulated under this chapter or subscriber contract regulated under chapter 62C shall be issued, renewed, or continued to provide coverage to a Minnesota resident unless it satisfies the requirements of subdivision 2.

Subd. 2. [REQUIREMENT.] If an issuer of policies or plans referred to in subdivision 1 ceases to offer a particular policy or subscriber contract to the general public or otherwise stops adding new insureds to the group of covered persons, the issuer shall allow any covered person to transfer to another substantially similar policy or contract currently being sold by the issuer. The issuer shall permit the transfer without any preexisting condition limitation, waiting period, or other restriction of any type other than those which applied to the insured under the prior policy or contract. This section does not apply to persons who were covered under an individual policy or contract prior to July 1, 1994.

Sec. 38. [62A.136] [DENTAL AND VISION PLANS.]

The following provisions do not apply to health plans providing dental or vision coverage only: sections 62A.041, 62A.047, 62A.149, 62A.151, 62A.152, 62A.154, 62A.155, 62A.26, 62A.28, and 62A.30.

Sec. 39. Minnesota Statutes 1992, section 62A.148, is amended to read:

62A.148 [GROUP INSURANCE; PROVISION OF BENEFITS FOR DISABLED EMPLOYEES.]

No employer or insurer of that employer shall terminate, suspend or otherwise restrict the participation in or the receipt of benefits otherwise payable under any program or policy of group insurance to any covered employee who becomes totally disabled while employed by the employer solely on account of absence caused by such total disability. This includes coverage of dependents of the employee. If the employee is required to pay all or any part of the premium for the extension of coverage, payment shall be made to the employer, by the employee.

Sec. 40. Minnesota Statutes 1992, section 62A.153, is amended to read:

62A.153 [FREE STANDING AMBULATORY SURGICAL CENTERS OUTPATIENT MEDICAL AND SURGICAL SERVICES.]

No policy or plan of health, medical, hospitalization, or accident and sickness insurance regulated under this chapter, or subscriber contract provided by a nonprofit health service plan corporation regulated under chapter 62C that provides coverage for services in a hospital shall be issued, renewed, 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 the policy, plan or contract specifically provides coverage for a health care treatment or service rendered by a free standing ambulatory surgical center or facilities offering ambulatory medical service 24 hours a day seven days a week, which are not part of a hospital, but have been reviewed and approved by the state commissioner of health to provide the treatment or service, surgery on an outpatient basis at a facility equipped to perform these services, whether or not the facility is part of a hospital. Coverage shall be on the same basis as coverage provided for the same health care treatment or service rendered by in a hospital.

Sec. 41. Minnesota Statutes 1992, section 62A.43, subdivision 4, is amended to read:

Subd. 4. [OTHER POLICIES NOT PROHIBITED.] The prohibition in this section or the requirements of section 62A.31, subdivision 1, against the sale of duplicate Medicare supplement coverage does do not preclude the sale of insurance coverage, such as travel, accident and sickness coverage, the effect or purpose of which is not to supplement Medicare coverage. Notwithstanding this provision, if the commissioner determines that the coverage being sold is in fact Medicare supplement insurance, the commissioner shall notify the insurer in writing of the determination. If the insurer does not thereafter comply with sections 62A.31 to 62A.44, the commissioner may, pursuant to chapter 14, revoke or suspend the insurer's authority to sell accident and health insurance in this state or impose a civil penalty not to exceed \$10,000, or both.

Sec. 42. [62A.49] [HOME CARE SERVICES COVERAGE.]

Subdivision 1. [GENERALLY.] Section 62A.48 does not prohibit the sale of policies, certificates, subscriber contracts, or other evidences of coverage that provide home care services only. This does not, however, remove the requirement that home care service benefits must be provided as part of a long-term care policy pursuant to that section. Home care services only policies may be sold, provided that they meet the requirements set forth in sections 62A.46 to 62A.56, except that they will not have to meet those conditions that relate to long-term care in nursing facilities. Disclosures and representations regarding these policies must be adjusted accordingly to remove references to coverage for nursing home care.

Subd. 2. [PROVIDER NETWORKS AND MANAGED CARE.] Home health care services issued pursuant to this section may be provided through a limited provider network and may employ managed care practices. If these methods are used, they must be adequately disclosed within the policy and any advertisements or representations regarding coverage. Policies may not be sold in areas where there are not sufficient providers to meet the needs of the policyholders located in that area.

Sec. 43. [62A.61] [PREEXISTING CONDITIONS; LIMITATIONS ON CANCELLATIONS, RESCISSIONS, OR RESTRICTIONS ON COVERAGE.]

No insurer may cancel or rescind a health insurance policy or otherwise retroactively restrict coverage for a preexisting condition of which the application or other information provided by the insured reasonably gave the insurer notice. No insurer may prospectively restrict coverage for a preexisting condition of which the application or other information provided by the insured reasonably gave the insurer notice unless the coverage is restricted at the time the policy is issued and the restriction is disclosed in writing to the insured at the time the policy is issued.

Sec. 44. Minnesota Statutes 1992, section 62E.19, subdivision 1, is amended to read:

Subdivision 1. [EMPLOYER LIABILITY.] An employer is liable to the association for the costs of any preexisting conditions of the employer's former employees or their dependents during the first six months of coverage under the state comprehensive health insurance plan under the following conditions:

(1)(i) the employer has terminated or laid off employees and is required to meet the notice requirements under section 268.976, subdivision 3;

(2) (ii) the employer has failed to provide, arrange for, or make available continuation health insurance coverage required to be provided under federal or state law to employees or their dependents; and

(3) (iii) the employer's former employees or their dependents enroll in the state comprehensive health insurance plan with a waiver of the preexisting condition limitation under section 62E.14, subdivision 4a or 5; or

(4) (2)(i) the employer has terminated or allowed the employer's plan of health insurance coverage to lapse within 90 days prior to the date of termination or layoff of an employee; and

(5) (ii) the employer's former employees or their dependents enroll in the state comprehensive health insurance plan with a waiver of the preexisting condition limitation under section 62E.14, subdivision 4a or 5.

The employer shall pay a special assessment to the association for the costs of the preexisting conditions. The special assessment may be assessed before the association makes the annual determination of each contributing member's liability as required under this chapter. The association may enforce the obligation to pay the special assessment by action, as a claim in an insolvency proceeding, or by any other method not prohibited by law.

If the association makes the special assessment permitted by this subdivision, the association may also make any assessment of contributing members otherwise permitted by law, without regard to the special assessment permitted by this subdivision. Contributing members must pay the assessment, subject to refund or adjustment in the event of receipt by the association of any portion of the special assessment.

Sec. 45. Minnesota Statutes 1992, section 62H.01, is amended to read:

62H.01 [JOINT SELF-INSURANCE EMPLOYEE HEALTH PLAN.]

Any two or more employers, excluding the state and its political subdivisions as described in section 471.617, subdivision 1, who are authorized to transact business in Minnesota may jointly self-insure employee health, dental, ~~or short-term disability benefits, or other benefits permitted under the Employee Retirement Income Security Act of 1974, United States Code, title 29, sections 1001 et seq.~~ Joint plans must have a minimum of 100 covered employees and meet all conditions and terms of sections 62H.01 to 62H.08. Joint plans covering employers not resident in Minnesota must meet the requirements of sections 62H.01 to 62H.08 as if the portion of the plan covering Minnesota resident employees was treated as a separate plan. A plan may cover employees resident in other states only if the plan complies with the applicable laws of that state.

A multiple employer welfare arrangement as defined in United States Code, title 29, section 1002(40)(a), is subject to this chapter to the extent authorized by the Employee Retirement Income Security Act of 1974, United States Code, title 29, sections 1001 et seq.

Sec. 46. [62H.10] [DEFINITIONS.]

Subdivision 1. [SCOPE.] For purposes of sections 62H.10 to 62H.17, the terms in this section have the meanings given them.

Subd. 2. [AGENT.] "Agent" means an insurance agent as defined under section 60A.02, subdivision 7.

Subd. 3. [ARRANGEMENT.] "Arrangement" means a fund, trust, plan, program, or other mechanism by which a person provides, or attempts to provide, health care benefits to individuals.

Subd. 4. [BROKER.] "Broker" means an agent engaged in brokerage business pursuant to section 60K.08.

Subd. 5. [COLLECTIVELY BARGAINED ARRANGEMENT.] "Collectively bargained arrangement" means an arrangement which provides or represents that it is providing health care benefits or coverage under or pursuant to one or more collective bargaining agreements.

Subd. 6. [COMMISSIONER.] "Commissioner" means the commissioner of commerce.

Subd. 7. [EMPLOYEE LEASING ARRANGEMENT.] "Employee leasing arrangement" means a labor leasing, staff leasing, employee leasing, contract labor, extended employee staffing or supply, or other arrangement, under contract or otherwise, whereby one business or entity leases or obtains all or a significant number of its workers from another business or entity.

Subd. 8. [EMPLOYEE WELFARE BENEFIT PLAN.] "Employee welfare benefit plan" means a plan, fund, or program established or maintained by an employer or by an employee organization, or by both, to the extent that the plan, fund, or program was established or is maintained for the purpose of providing for its participants or their beneficiaries, through the purchase of insurance or otherwise, medical, surgical, or hospital care or benefits, or benefits in the event of sickness, accident, disability, death, or unemployment.

Subd. 9. [FULLY INSURED BY A LICENSED INSURER.] "Fully insured by a licensed insurer" means that, for all of the health care benefits or coverage provided or offered by or through an arrangement:

- (1) a licensed insurer is directly obligated by contract to provide all of the coverage to or under the arrangement;
- (2) the licensed insurer assumes all of the risk for payment of all covered services or benefits; and
- (3) the liability of the licensed insurer for payment of the covered services or benefits is directly to the individual employee, member, or dependent receiving the health care services.

Subd. 10. [LICENSED INSURER.] "Licensed insurer" means an insurer having a certificate of authority to transact insurance in this state.

Subd. 11. [REPORTABLE MEWA.] "Reportable MEWA" means a person that provides health care benefits or coverage to the employees of two or more employers. Reportable MEWA does not include:

- (1) a licensed insurer;
- (2) an arrangement which is fully insured by a licensed insurer;
- (3) a collectively bargained arrangement;
- (4) an employee welfare benefit plan established or maintained by a rural electric cooperative or a rural telephone cooperative;
- (5) an employee leasing arrangement; or
- (6) a joint self-insurance employee health plan, which includes but is not limited to multiple employee welfare arrangements and multiple employer welfare arrangements (MEWAs), having a certificate of authority to transact insurance in this state pursuant to chapter 62H.

Subd. 12. [RURAL ELECTRIC COOPERATIVE.] "Rural electric cooperative" means:

- (1) an organization that is exempt from tax under United States Code, title 26, section 501(a), and which is engaged primarily in providing electric service on a mutual or cooperative basis; or
- (2) an organization described in United States Code, title 26, section 501(c), paragraph (4) or (6), which is exempt from tax under United States Code, title 26, section 501(a), and at least 80 percent of the members of which are organizations described in clause (1).

Subd. 13. [RURAL TELEPHONE COOPERATIVE.] "Rural telephone cooperative" means an organization described in United States Code, title 26, section 501(c), paragraph (4) or (6), which is exempt from tax under United States Code, title 26, section 501(a), and at least 80 percent of the members of which are organizations engaged primarily in providing telephone service to rural areas of the United States on a mutual, cooperative, or other basis.

Subd. 14. [THIRD PARTY ADMINISTRATOR.] "Third party administrator" means a vendor of risk management services or an entity administering a self-insurance or insurance plan under section 60A.23.

Sec. 47. [62H.11] [AGENTS AND BROKERS PROHIBITED FROM ASSISTING REPORTABLE MEWAS PRIOR TO FILING.]

(a) No agent or broker may solicit, advertise, or market in this state health benefits or coverage from, or accept an application for, or place coverage for a person who resides in this state with, a reportable MEWA unless the agent or broker first files the information required under section 62H.16.

(b) No agent or broker may solicit another agent or broker to enter into an arrangement to solicit, advertise, or market services, health benefits, or coverage of a reportable MEWA unless the agent or broker first files the information required under section 62H.16.

Sec. 48. [62H.12] [AGENTS AND BROKERS PROHIBITED FROM ASSISTING EMPLOYEE LEASING ARRANGEMENTS PRIOR TO FILING.]

(a) No agent or broker may solicit, advertise, or market in this state the services, health benefits, or coverage of an employee leasing arrangement or a person or arrangement which represents itself as an employee leasing arrangement unless the agent or broker first files the information required under section 62H.16.

(b) No agent or broker may solicit another agent or broker to enter into an arrangement to solicit, advertise, or market the services, health benefits, or coverage of an employee leasing arrangement unless the agent or broker first files the information required under section 62H.16.

Sec. 49. [62H.13] [AGENTS AND BROKERS PROHIBITED FROM ASSISTING COLLECTIVELY BARGAINED ARRANGEMENTS PRIOR TO FILING.]

(a) No agent or broker may solicit, advertise, or market in this state health benefits or coverage from, or accept an application for, or place coverage for a person who resides in this state with, a collectively bargained arrangement or an arrangement that represents itself as a collectively bargained arrangement unless the agent or broker first files the information required under section 62H.16.

(b) No agent or broker may solicit another agent or broker to enter into an arrangement to solicit, advertise, or market the health benefits or coverage of a collectively bargained arrangement unless the agent or broker first files the information required under section 62H.16.

Sec. 50. [62H.14] [THIRD PARTY ADMINISTRATORS AND LICENSED INSURERS PROHIBITED FROM ASSISTING REPORTABLE MEWAS PRIOR TO FILING.]

(a) No third party administrator may solicit or effect coverage of, underwrite for, collect charges or premium for, or adjust or settle claims of a resident of this state for, or enter into any agreement to perform any of those functions for, a reportable MEWA that provides coverage to residents of this state unless the third party administrator first files the information required under section 62H.16.

(b) No licensed insurer may solicit or effect coverage of, underwrite for, collect charges or premiums for, adjust or settle claims of a resident of this state for, or enter into any agreement to perform any of those functions for a reportable MEWA that provides coverage to residents of this state unless the insurer first files the information required under section 62H.16.

(c) A licensed insurer which issues or has issued any insurance coverage to a reportable MEWA that covers residents of this state, including, but not limited to, specific or aggregate stop-loss coverage, shall file the information required under section 62H.16 within 30 days after the coverage is issued or within 30 days after the date the reportable MEWA first provides coverage to a resident of this state, whichever is later.

Sec. 51. [62H.15] [LACK OF KNOWLEDGE NOT A DEFENSE.]

(a) Lack of knowledge or intent to deceive with respect to the organization or status of insurance coverage of a reportable MEWA, employee leasing firm, or collectively bargained arrangement is not a defense to a violation of sections 62H.10 to 62H.17.

(b) A filing under sections 62H.10 to 62H.17 is solely for the purpose of providing information to the commissioner. Sections 62H.10 to 62H.17 and a filing under those sections do not authorize or license a reportable MEWA, employee leasing firm, collectively bargained arrangement, or any other arrangement to engage in business in this state if otherwise prohibited by law.

Sec. 52. [62H.16] [INFORMATION REQUIRED TO BE FILED AND KEPT CURRENT.]

(a) An agent, broker, third party administrator, or insurer required to file under sections 62H.10 to 62H.17 shall file all of the following information on a form prescribed by the commissioner:

(1) a copy of the organizational documents of the reportable MEWA, employee leasing firm, or collectively bargained arrangement, including the articles of incorporation and bylaws, partnership agreement, or trust instrument;

(2) a copy of each insurance or reinsurance contract which purports to insure or guarantee all or any portion of benefits or coverage offered by the reportable MEWA, employee leasing firm, or collectively bargained arrangement to a person who resides in this state;

(3) copies of the benefit plan description and other materials intended to be distributed to potential purchasers; and

(4) the names and addresses of all persons performing or expected to perform the functions of a third party administrator for the reportable MEWA, employee leasing firm, or collectively bargained arrangement.

(b) A filing under sections 62H.10 to 62H.17 is ineffective and is not in compliance with those sections if it is incomplete or inaccurate in a material respect.

(c) A person who has made a filing under sections 62H.10 to 62H.17 shall amend the filing within 30 days of the date the person becomes aware, or exercising due diligence should have become aware, of any material change to the information required to be filed. The amended filing shall accurately reflect the material change to the information originally filed.

Sec. 53. [62H.17] [LIABILITY FOR VIOLATION.]

If an arrangement that is an unauthorized insurer fails to pay a claim or loss in this state within the provisions of its contract, a person who violates sections 62H.10 to 62H.17 with respect to the arrangement shall be liable to the insured for the full amount of the claim or loss in the manner provided by the provisions of the insurance contract.

Sec. 54. Minnesota Statutes 1992, section 62I.02, is amended to read:

62I.02 [MINNESOTA JOINT UNDERWRITING ASSOCIATION.]

Subdivision 1. [CREATION.] The Minnesota joint underwriting association is created to provide insurance coverage to any person or entity unable to obtain insurance through ordinary methods if the insurance is required by statute, ordinance, or otherwise required by law, or is necessary to earn a livelihood or conduct a business and serves a public purpose including, but not limited to, liquor liability. Prudent business practice or mere desire to have insurance coverage is not a sufficient standard for the association to offer insurance coverage to a person or entity. For purposes of this subdivision, directors' and officers' liability insurance is considered to be a business necessity and not merely a prudent business practice. The association shall be specifically authorized to provide insurance coverage to day care providers, foster parents, foster homes, developmental achievement centers, group homes, and rehabilitation facilities for mentally, emotionally, or physically handicapped persons, and citizen participation groups established pursuant to the housing and community redevelopment act of 1974, Public Law Number 93-383. Because the activities of certain persons or entities present a risk that is so great, the association shall not offer insurance coverage to any person or entity the board of directors of the association determines is outside the intended scope and purpose of the association because of the gravity of the risk of offering insurance coverage. The association shall not offer environmental impairment liability or product liability insurance. The association shall not offer coverage for activities that are conducted substantially outside the state of Minnesota unless the insurance is required by statute, ordinance, or otherwise required by law. Every insurer authorized to write property and casualty insurance and personal injury liability insurance in this state shall be a member of the association as a condition to obtaining and retaining a license to write insurance in this state.

Subd. 2. [DIRECTOR.] The association shall have a board of directors composed of 11 persons chosen as follows: five persons elected by members of the association at a meeting called by the commissioner; three public members, as defined in section 214.02, appointed by the commissioner; and three members, appointed by the commissioner representing groups to whom coverage has been extended by the association. The terms of the members shall be four years. Terms may be staggered so that no more than six members are appointed or elected every two years. Members may serve until their successors are appointed or elected. If at any time no coverage is currently extended by the association, then either additional public members may be appointed to fill these three positions or, at the option of the commissioner, representatives from groups who had previously been covered by the association may serve as directors.

Subd. 3. [REAUTHORIZATION.] The authorization to issue insurance to day care providers, foster parents, foster homes, developmental activity centers, group homes, and rehabilitation facilities for mentally, emotionally, or physically handicapped persons, and citizen participation groups established pursuant to the housing and community redevelopment act of 1974, Public Law Number 93-383, is valid for a period of two years from the date it was made. The commissioner may reauthorize the issuance of insurance for these groups and other classes of business for additional two-year periods pursuant to sections 62I.21 and 62I.22. This subdivision is not a limitation on the number of times the commissioner may reauthorize the issuance of insurance.

Subd. 4. [LIQUOR LIABILITY.] Policies and contracts of coverage issued under this section for the purposes of providing liquor liability insurance must contain the usual and customary provisions of liability insurance policies, and must contain at least the minimum coverage required by section 340A.409, subdivision 1, or the local governing unit.

Subd. 5. [ACCOUNTS.] For the purposes of administration and assessment, the association shall be divided into two separate accounts: (1) the property and casualty insurance account; and (2) the personal injury liability insurance account.

Sec. 55. Minnesota Statutes 1992, section 62I.03, is amended to read:

62I.03 [DEFINITION.]

Subdivision 1. [SCOPE.] As used in sections 62I.01 to 62I.22 the following terms have the meanings given them in this section.

Subd. 2. [ASSOCIATION.] "Association" means the Minnesota joint underwriting association.

Subd. 3. [COMMISSIONER.] "Commissioner" means the commissioner of commerce.

Subd. 4. [DIRECT WRITTEN PREMIUMS.] "Direct written premiums" means that amount at column (2), lines 5, 8, 9, 17, 21.2, 22, 23, 24, 25, 26, and 27, page 14, of the annual statement filed annually with the department of commerce pursuant to section 60A.13.

Subd. 5. [DEFICIT.] "Deficit" means, for a particular policy year, that amount by which total paid and outstanding losses and loss adjustment expenses exceed premium revenue, including retrospective premium revenue.

Subd. 6. [NET DIRECT PREMIUMS.] For purposes of liquor liability insurance, "net direct premiums" means gross direct premiums written on personal injury liability insurance, including the liability component of multiple peril package policies as computed by the commissioner, less return premiums for the unused or unabsorbed portions of premium deposits.

Subd. 7. [PERSONAL INJURY LIABILITY INSURANCE.] "Personal injury liability insurance" means insurance described in section 60A.06, subdivision 1, clause (13).

Sec. 56. Minnesota Statutes 1992, section 62I.07, is amended to read:

62I.07 [MEMBERSHIP ASSESSMENTS.]

Subdivision 1. [GENERAL ASSESSMENT.] Each member of the association that is authorized to write property and casualty insurance in the state shall participate in its losses and expenses in the proportion that the direct written premiums of the member on the kinds of insurance in that account bears to the total aggregate direct written premiums written in this state by all members on the kinds of insurance in that account. The members' participation in the association shall be determined annually on the direct written premiums written during the preceding calendar year as reported on the annual statements and other reports filed by the member with the commissioner.

Subd. 2. [PERSONAL INJURY LIABILITY INSURANCE ASSESSMENT.] A member of the association shall participate in its writings, expenses, servicing allowance, management fees and losses in the proportion that the net direct premiums of the member, excluding that portion of premiums attributable to the operation of the association, written during the preceding calendar year on the kinds of insurance in that account bears to the aggregate net direct premiums written in this state by all members on the kinds of insurance in that account. The member's participation in the association shall be determined annually on the basis of net direct premiums written during the preceding calendar year, as reported in the annual statements and other reports filed by the member with the commissioner.

Sec. 57. Minnesota Statutes 1992, section 62I.13, subdivision 1, is amended to read:

Subdivision 1. [GENERALLY.] To be eligible to participate in the association, an applicant must apply for coverage through the market assistance program, as required by section 62I.08. Except as provided for by subdivision 4, the market assistance program has 30 days from the receipt of the application to secure an offer of coverage for the applicant. If the market assistance program is able to secure an offer of coverage for the applicant and if the offer of coverage would not be considered a refusal for purposes of the association, then coverage may not be extended by the association. Eligibility for coverage by the association is also subject to the terms and conditions of subdivisions 2 and 3.

Sec. 58. Minnesota Statutes 1992, section 62I.13, subdivision 2, is amended to read:

Subd. 2. [MINIMUM OF QUALIFICATIONS.] Anyone who is unable to obtain insurance in the private market and who so certifies to the association in the application is eligible to make written application to the association for coverage. Payment of the applicable premium or required portion of it must be paid prior to coverage by the association. An offer of coverage at a rate in excess of the rate that would be charged by the association for similar coverage and risk shall be deemed to be a refusal of coverage for purposes of eligibility for participation in the association. It shall not be deemed to be a written notice of refusal if the rate for coverage offered is less than five percent in excess of the joint underwriting association rates for similar coverage and risk or 20 percent in excess of the joint underwriting association rates for liquor liability coverages. However, the offered rate must also be the rate that the insurer has filed with the department of commerce if the insurer is required to file its rates with the department. If the insurer is not required to file its rates with the department, the offered rate must be the rate generally charged by the insurer for similar coverage and risk.

Sec. 59. Minnesota Statutes 1992, section 62I.20, is amended to read:

62I.20 [MERGER OF OTHER PLANS.]

Upon application by the governing body of ~~the liquor liability assigned risk plan authorized by section 340A.409~~ or the joint underwriting association authorized by chapter 62F to be merged with the association, the commissioner shall, if the commissioner deems it appropriate, hold a public hearing in regard to the merger. The commissioner upon motion or upon the motion of any insured under plans shall hold a hearing. Unless it can be shown that the rights of the insured would be adversely affected by the merger or that it would be less efficient or more costly to merge the plans, the commissioner shall consent to the merger. The commissioner shall also consent to the merger at any time there are less than ten insureds in any plan.

Sec. 60. Minnesota Statutes 1992, section 65A.01, subdivision 1, is amended to read:

Subdivision 1. [DESIGNATION AND SCOPE.] The printed form of a policy of fire insurance, as set forth in subdivisions 3 and 3a, shall be known and designated as the "Minnesota standard fire insurance policy" to be used in the state of Minnesota. No policy or contract of fire insurance shall be made, issued or delivered by any insurer including reciprocals or interinsurance exchanges or any agent or representative thereof, on any property in this state, unless it shall provide the specified coverage and conform as to all provisions, stipulations, and conditions, with such form of policy, except as provided in section sections 60A.08, subdivision 9; 60A.30 to 60A.35; 65A.06; 65A.29; 72A.20, subdivision 17; and other statutes containing specific requirements that are inconsistent with the form of this policy. Any policy or contract otherwise subject to the provisions of this subdivision, subdivisions 3 and 3a which includes either on an unspecified basis as to coverage or for a single premium, coverage against the peril of fire and coverage against other perils may be issued without incorporating the exact language of the Minnesota standard fire insurance policy, provided: Such policy or contract shall, with respect to the peril of fire, afford the insured all the rights and benefits of the Minnesota standard fire insurance policy and such additional benefits as the policy provides; the provisions in relation to mortgagee interests and obligations in said Minnesota standard fire insurance policy shall be incorporated therein without change; such policy or contract is complete as to its terms of coverage; and, the commissioner is satisfied that such policy or contract complies with the provisions hereof.

Sec. 61. Minnesota Statutes 1992, section 65A.29, subdivision 7, is amended to read:

Subd. 7. [RENEWAL; NOTICE REQUIREMENT.] No insurer shall refuse to renew, or reduce limits of coverage, or eliminate any coverage in a homeowner's insurance policy unless it mails or delivers to the insured, at the address shown in the policy, at least 60 days advance notice of its intention. The notice must contain the specific underwriting or other reason or reasons for the indicated action.

Proof of mailing this notice to the insured at the address shown in the policy is sufficient proof that the notice required by this section has been given.

Sec. 62. Minnesota Statutes 1992, section 65B.49, subdivision 3, is amended to read:

Subd. 3. [RESIDUAL LIABILITY INSURANCE.] (1) Each plan of reparation security shall also contain stated limits of liability, exclusive of interest and costs, with respect to each vehicle for which coverage is thereby granted, of not less than \$30,000 because of bodily injury to one person in any one accident and, subject to said limit for one person, of not less than \$60,000 because of injury to two or more persons in any one accident, and, if the accident has resulted in injury to or destruction of property, of not less than \$10,000 because of such injury to or destruction of property of others in any one accident.

(2) Under residual liability insurance the reparation obligor shall be liable to pay, on behalf of the insured, sums which the insured is legally obligated to pay as damages because of bodily injury and property damage arising out of the ownership, maintenance or use of a motor vehicle if the injury or damage occurs within this state, the United States of America, its territories or possessions, or Canada. A reparation obligor shall also be liable to pay sums which another reparation obligor is entitled to recover under the indemnity provisions of section 65B.53, subdivision 1.

(3) Every plan of reparation security shall be subject to the following provisions which need not be contained therein:

(a) The liability of the reparation obligor with respect to the residual liability coverage required by this clause shall become absolute whenever injury or damage occurs; such liability may not be canceled or annulled by any agreement between the reparation obligor and the insured after the occurrence of the injury or damage; no statement made by the insured or on the insured's behalf and no violation of said policy shall defeat or void said policy.

(b) The satisfaction by the insured of a judgment for such injury or damage shall not be a condition precedent to the right or duty of the reparation obligor to make payment on account of such injury or damage.

(c) The reparation obligor shall have the right to settle any claim covered by the residual liability insurance policy, and if such settlement is made in good faith, the amount thereof shall be deductible from the limits of liability for the accident out of which such claim arose.

(d) Except as provided in subdivision 5a, a residual liability insurance policy shall be excess of a nonowned vehicle policy whether the nonowned vehicle is borrowed or rented, or used for business or pleasure. A nonowned vehicle is one not used or provided on a regular basis.

Sec. 63. Minnesota Statutes 1992, section 72A.20, subdivision 29, is amended to read:

Subd. 29. [HIV TESTS; CRIME VICTIMS.] No insurer regulated under chapter 61A or 62B, or providing health, medical, hospitalization, or accident and sickness insurance regulated under chapter 62A, or nonprofit health services corporation regulated under chapter 62C, health maintenance organization regulated under chapter 62D, or fraternal benefit society regulated under chapter 64B, may:

(1) obtain or use the performance of or the results of a test to determine the presence of the human immune deficiency virus (HIV) antibody performed on an offender under section 611A.19 or performed on a crime victim who was exposed to or had contact with an offender's bodily fluids during commission of a crime that was reported to law enforcement officials, in order to make an underwriting decision, cancel, fail to renew, or take any other action with respect to a policy, plan, certificate, or contract; or

(2) ask an applicant for coverage or a person already covered whether the person has: (i) had a test performed for the reason set forth in clause (1); or (ii) been the victim of an assault or any other crime which involves bodily contact with the offender.

A question that purports to require an answer that would provide information regarding a test performed for the reason set forth in clause (1) may be interpreted as excluding this test. An answer that does not mention the test is considered to be a truthful answer for all purposes. An authorization for the release of medical records for insurance purposes must specifically exclude any test performed for the purpose set forth in clause (1) and must be read as providing this exclusion regardless of whether the exclusion is expressly stated. This subdivision does not affect tests conducted for purposes other than those described in clause (1), including any test to determine the presence of the human deficiency virus (HIV) antibody if such test was performed at the insurer's direction as part of the insurer's normal underwriting requirements.

Sec. 64. Minnesota Statutes 1992, section 72A.201, subdivision 9, is amended to read:

Subd. 9. [STANDARDS FOR COMMUNICATIONS WITH THE DEPARTMENT.] In addition to the acts specified elsewhere in this section and section 72A.20, the following acts by an insurer, adjuster, or a self-insured or self-insurance administrator constitute unfair settlement practices:

- (1) failure to respond, within 15 working days after receipt of an inquiry from the commissioner, about a claim, to the commissioner;
- (2) failure, upon request by the commissioner, to make specific claim files available to the commissioner;
- (3) failure to include in the claim file all written communications and transactions emanating from, or received by, the insurer, as well as all notes and work papers relating to the claim. All written communications and notes referring to verbal communications must be dated by the insurer;
- (4) failure to submit to the commissioner, when requested, any summary of complaint data reasonably required;
- (5) failure to compile and maintain a file on all complaints. If the complaint deals with a loss, the file must contain adequate information so as to permit easy retrieval of the entire file. If the complaint alleges that the company, or agent of the company, or any agent producing business written by the company is engaged in any unfair, false, misleading, dishonest, fraudulent, untrustworthy, coercive, or financially irresponsible practice, or has violated any insurance law or rule, the file must indicate what investigation or action was taken by the company. The complaint file must be maintained for at least four years after the date of the complaint.

For purposes of clause (1), the term insurer includes an agent of the insurer. The insurer must have been sent a copy of any communication to an agent to be held in violation of this provision.

Sec. 65. Minnesota Statutes 1992, section 72A.41, subdivision 1, is amended to read:

Subdivision 1. It is unlawful for any company to enter into a contract of insurance as an insurer or to transact insurance business in this state, as set forth in subdivision 2, without a certificate of authority from the commissioner; provided that this subdivision does not apply to: (a) contracts of insurance procured by agents under the authority of sections 60A.195 to 60A.209; (b) contracts of reinsurance and contracts of ocean or wet marine and transportation insurance; (c) transactions in this state involving a policy lawfully solicited, written and delivered outside of this state covering only subjects of insurance not resident, located, or expressly to be performed in this state at the time of issuance and which transactions are subsequent to the issuance of the policy; (d) ~~transactions in this state involving group or blanket insurance and group annuities where the master policy of such groups was lawfully issued and delivered in a state in which the company was authorized to do an insurance business where, except for group annuities, the insurer complies with section 72A.13. The commissioner may require the insurer which has issued such master policy to submit any information as the commissioner reasonably requires in order to determine if probable cause exists to convene a hearing to determine whether the total charges for the insurance to the persons insured are unreasonable in relation to the benefits provided under the policy;~~ (e) transactions in this state involving a policy of insurance or annuity issued prior to July 1, 1967; or (f) (e) contract of insurance procured under the authority of section 60A.19, subdivision 8; or (g) (f) transactions in this state involving contracts of insurance covering property or risks not located in this state.

Sec. 66. Minnesota Statutes 1992, section 72B.03, subdivision 1, is amended to read:

Subdivision 1. [REQUIREMENT; EXCEPTIONS.] Except as otherwise provided, no person shall act as an independent adjuster, public adjuster, or public adjuster solicitor for money, a commission, or any other thing of value, unless such person shall first obtain from the commissioner a license. No license shall be required for a person:

(a) ~~Undergoing a training or education program under the guidance of a licensed adjuster and who is registered with the commissioner for a one year temporary permit;~~

(b) (1) a person acting in a catastrophe or emergency situation, and who has registered with the commissioner for that purpose;

(c) (2) a nonresident adjuster who occasionally is in this state to adjust a single loss; provided, however, that if a nonresident adjusts more than six losses in this state in one year the adjuster must qualify for and receive a nonresident's license as provided in sections 72B.01 to 72B.14, and provided the adjuster's domiciliary state affords a like privilege.

Sec. 67. Minnesota Statutes 1992, section 72B.04, subdivision 2, is amended to read:

Subd. 2. [QUALIFICATIONS.] An applicant for licensing as an adjuster under sections 72B.01 to 72B.14 shall be at least 18 years of age, ~~and shall have one year's training and experience in adjusting insurance claims for damage or loss from risks in the field stated in the application.~~ The applicant shall be competent and trustworthy and shall not have been engaged in any practice which would be grounds for suspension or revocation of a license under sections 72B.01 to 72B.14 within the three years next preceding the date of the application.

An applicant for licensing as a public adjuster solicitor under sections 72B.01 to 72B.14 shall be at least 18 years of age, shall be competent and trustworthy, and shall not have been engaged in any practice which would be grounds for suspension or revocation of a license under sections 72B.01 to 72B.14 within the three years next preceding the date of the application.

In the case of any applicant who has been convicted of a felony within the ten years next preceding the date of the application, and who in the judgment of the commissioner, meets the other qualifications, the commissioner may impose the additional requirement of the filing of a bond in accordance with the requirements of section 72B.08, subdivision 8.

Sec. 68. Minnesota Statutes 1992, section 176.181, subdivision 2, is amended to read:

Subd. 2. [COMPULSORY INSURANCE; SELF-INSURERS.] (1) Every employer, except the state and its municipal subdivisions, liable under this chapter to pay compensation shall insure payment of compensation with some insurance carrier authorized to insure workers' compensation liability in this state, or obtain a written order from the commissioner of commerce exempting the employer from insuring liability for compensation and permitting self-insurance of the liability. The terms, conditions and requirements governing self-insurance shall be established by the commissioner pursuant to chapter 14. The commissioner of commerce shall also adopt, pursuant to clause (2)(c), rules permitting two or more employers, whether or not they are in the same industry, to enter into agreements to pool their liabilities under this chapter for the purpose of qualifying as group self-insurers. With the approval of the commissioner of commerce, any employer may exclude medical, chiropractic and hospital benefits as required by this chapter. An employer conducting distinct operations at different locations may either insure or self-insure the other portion of operations as a distinct and separate risk. An employer desiring to be exempted from insuring liability for compensation shall make application to the commissioner of commerce, showing financial ability to pay the compensation, whereupon by written order the commissioner of commerce, on deeming it proper, may make an exemption. An employer may establish financial ability to pay compensation by: ~~(1) providing financial statements of the employer to the commissioner of commerce; or (2) filing a surety bond or bank letter of credit with the commissioner of commerce in an amount equal to the anticipated annual compensation costs of the employer, but in no event less than \$100,000.~~ Upon ten days' written notice the commissioner of commerce may revoke the order granting an exemption, in which event the employer shall immediately insure the liability. As a condition for the granting of an exemption the commissioner of commerce may require the employer to furnish security the commissioner of commerce considers sufficient to insure payment of all claims under this chapter, consistent with subdivision 2b. If the required security is in the form of currency or negotiable bonds, the commissioner of commerce shall deposit it with the state treasurer. In the event of any default upon the part of a self-insurer to abide by any final order or decision of the commissioner of labor and industry directing and awarding payment of compensation and benefits to any employee or the dependents of any deceased employee, then upon at least ten days notice to the self-insurer, the commissioner of commerce may by written order to the state treasurer require the treasurer to sell the pledged and assigned securities or a part thereof necessary to pay the full amount of any such claim or award with interest thereon. This authority to sell may be exercised from time to time to satisfy any order or award of the commissioner of labor and industry or any judgment obtained thereon. When securities are sold the money obtained shall be deposited in the state treasury to the credit of the commissioner of commerce and awards made against any such self-insurer by the commissioner of commerce shall be paid to the persons entitled thereto by the state treasurer upon warrants prepared by the commissioner of commerce and approved by the commissioner of finance out of the proceeds of the sale of securities. Where the security is in the form of a surety bond or personal guaranty the commissioner of commerce, at any time, upon at least ten days notice and opportunity to be heard, may require the surety to pay the amount of the award, the payments to be enforced in like manner as the award may be enforced.

(2)(a) No association, corporation, partnership, sole proprietorship, trust or other business entity shall provide services in the design, establishment or administration of a group self-insurance plan under rules adopted pursuant to this subdivision unless it is licensed pursuant to section 60A.23, subdivision 8, to do so by the commissioner of commerce. An applicant for a license shall state in writing the type of activities it seeks authorization to engage in and the type of services it seeks authorization to provide. The license shall be granted only when the commissioner

of commerce is satisfied that the entity possesses the necessary organization, background, expertise, and financial integrity to supply the services sought to be offered. The commissioner of commerce may issue a license subject to restrictions or limitations, including restrictions or limitations on the type of services which may be supplied or the activities which may be engaged in. The license is for a two-year period.

(b) To assure that group self-insurance plans are financially solvent, administered in a fair and capable fashion, and able to process claims and pay benefits in a prompt, fair and equitable manner, entities licensed to engage in such business are subject to supervision and examination by the commissioner of commerce.

(c) To carry out the purposes of this subdivision, the commissioner of commerce may promulgate administrative rules, including emergency rules, pursuant to sections 14.001 to 14.69. These rules may:

(i) establish reporting requirements for administrators of group self-insurance plans;

(ii) establish standards and guidelines consistent with subdivision 2b to assure the adequacy of the financing and administration of group self-insurance plans;

(iii) establish bonding requirements or other provisions assuring the financial integrity of entities administering group self-insurance plans;

(iv) establish standards, including but not limited to minimum terms of membership in self-insurance plans, as necessary to provide stability for those plans;

(v) establish standards or guidelines governing the formation, operation, administration, and dissolution of self-insurance plans; and

(vi) establish other reasonable requirements to further the purposes of this subdivision. The rules may not require excessive cash payments to a common claims fund by group self-insurers. However, a level of funding in the common claims fund will always be maintained at not less than one year's claim losses paid in the most recent year.

Sec. 69. Minnesota Statutes 1992, section 340A.409, subdivision 2, is amended to read:

Subd. 2. [MARKET ASSISTANCE.] ~~The commissioner of commerce shall advise licensees and municipalities subject to the financial responsibility requirements of subdivision 1 of those persons offering insurance coverage. The commissioner of commerce shall establish a program to assist licensees in obtaining insurance coverage. The program shall include a committee appointed by the commissioner of commerce that is representative of insurance carriers and producers, liquor vendors, and the public. No less than one half of the committee members shall represent casualty insurers and surplus lines agents or brokers. The commissioner of commerce or the commissioner's designated representative shall serve as an ex officio member of the committee. The committee shall review and act upon all properly executed applications. If the committee finds that it cannot assist in securing insurance coverage, it shall notify the applicant in writing with a full explanation and recommendation for enhancing its ability to secure insurance. The commissioner of commerce shall, if necessary, establish an assigned risk plan pursuant to subdivision 3. The market assistance plan of the Minnesota joint underwriting association shall assist licensees in obtaining insurance coverage.~~

Sec. 70. Minnesota Statutes 1992, section 340A.409, subdivision 3, is amended to read:

Subd. 3. [ASSIGNED RISK PLAN MINNESOTA JOINT UNDERWRITING ASSOCIATION.] (a) ~~The purpose of the assigned risk plan is to Minnesota joint underwriting association shall provide coverage required by subdivision 1 to persons rejected under this subdivision.~~

(b) ~~An insurer who offers liquor liability insurance that refuses to write the coverage required by subdivision 1 shall furnish the applicant with a written notice of refusal. The rejected applicant shall file a copy of the notice of refusal with the commissioner of public safety at the time of application for coverage to the assigned risk plan and the market assistance program.~~

~~A written notice of refusal must be provided to any applicant who has requested only liquor liability insurance if the insurer chooses to only offer liquor liability insurance in combination with other types of insurance.~~

A written notice of refusal must be provided by an insurer to any applicant who receives an offer of coverage from that insurer that is in excess of the rate charged by the assigned risk plan for similar coverage and risk. A notice is not required if the rate for the coverage offered is less than 20 percent in excess of the assigned risk plan rates, provided that the offered rate is the rate that the insurer has filed with the commissioner of commerce if the insurer is required to file its rates with the commissioner. If the insurer is not required to file its rates with the commissioner, the offered rate must be the rate generally charged by the insurer for similar coverage and risk.

A notice of refusal is not required to be filed if there is not an insurer offering liquor liability insurance in the state.

To be eligible to participate in the assigned risk plan an applicant must apply for coverage through the market assistance program. Application to the market assistance program must be made no later than the time of application to the assigned risk plan. If the market assistance program is unable to secure coverage then coverage may be extended by the assigned risk plan.

(c) The commissioner of commerce may enter into service contracts as necessary or beneficial to accomplish the purposes of the assigned risk plan including servicing of policies or contracts of coverage, data management, and assessment collections. Services related to the administration of policies or contracts of coverages must be performed by one or more qualified insurance companies licensed pursuant to section 60A.06, subdivision 1, clause (13), or a qualified vendor of risk management services. A qualified insurer or vendor of risk management services must possess sufficient financial, professional, administrative, and personnel resources to provide the services required for operation of the plan. The cost of all services contracted for are an obligation of the assigned risk plan.

(d) The commissioner of commerce may assess all insurers licensed under section 60A.06, subdivision 1, clause (13), an amount sufficient to fully fund the obligations of the assigned risk plan if the commissioner determines that the assets of the assigned risk plan are insufficient to meet its obligations. The assessment of each insurer must be in a proportion equal to the proportion which the amount of insurance written as reported on page 14 of the annual statement under line 5, commercial multiperil, and line 17, other liability, during the preceding calendar year by that insurer bears to the total written by all such carriers for such lines.

(e) Policies and contracts of coverage issued under this subdivision must contain the usual and customary provisions of liability insurance policies, and must contain at least the minimum coverage required by subdivision 1 or the local governing unit.

(f) Assigned risk policies and contracts of coverage are subject to premium tax pursuant to section 60A.15.

(g) Insureds served by the assigned risk plan must be charged premiums based upon a rating plan approved by the commissioner of commerce. Assigned risk premiums must be on an actuarially sound basis. The rating plan approved by the commissioner shall provide for surcharge factors based upon claims reported and losses paid. The commissioner of commerce shall fix the compensation received by the agent of record.

(h) The rating plan may be amended by rule pursuant to chapter 14 or by the following expedited procedures:

(1) Any person may, by written petition served upon the commissioner, request that a hearing be held to amend the rating plan.

(2) The commissioner shall forward a copy of the petition to the chief administrative law judge within three business days of its receipt. The chief administrative law judge shall, within three business days of receipt of the copy of the petition or a request for a hearing by the commissioner, set a hearing date, assign an administrative law judge to hear the matter, and notify the commissioner of the hearing date and the administrative law judge assigned to hear the matter. The hearing date must be set no less than 60 days nor more than 90 days from the date of receipt of the petition by the commissioner.

(3) The commissioner of commerce shall publish a notice of the hearing in the State Register at least 30 days before the hearing date. The notice should be similar to that used for rulemaking under the administrative procedure act. Approval by the administrative law judge of the notice prior to publication is not required.

(4) The hearing and all matters taking place after the hearing are a contested case under chapter 14. Within 45 days from the commencement of the hearing and within 15 days of the completion of the hearing the administrative law judge shall submit a report to the commissioner of commerce. The parties, or the administrative law judge, if the parties cannot agree, shall adjust all time requirements under the contested case procedure to conform with the 45 day requirement.

~~(5) The commissioner shall render a decision within ten business days of the receipt of the administrative law judge's report.~~

~~(6) If all parties to the proceeding agree, any of the previous requirements may be waived or modified.~~

~~(7) A petition for a hearing to amend the rating plan received by the commissioner within 180 days of the date of the commissioner's decision in a prior proceeding to amend the rating plan is invalid and requires no action.~~

~~(b) A liquor vendor shall be denied or terminated from coverage through the assigned risk plan Minnesota joint underwriting association if the liquor vendor disregards safety standards, laws, rules, or ordinances pertaining to the offer, sale, or other distribution of liquor.~~

~~The commissioner may by rule establish other conditions for denial or termination from coverage through the assigned risk plan.~~

~~(j) The commissioner of commerce shall adopt rules needed to implement this subdivision. The rules may include:~~

~~(1) appeal procedures from actions of the assigned risk plan;~~

~~(2) formation of an advisory committee composed of insurers, vendors of risk management services and licensees, to advise the commissioner of commerce regarding operation of the plan; and~~

~~(3) applicable rating plans and rating standards.~~

Sec. 71. [LIQUOR LIABILITY ASSIGNED RISK PLAN OBLIGATIONS AND LIABILITIES.]

The Minnesota joint underwriting association shall assume the obligations of existing contracts and existing liabilities of the liquor liability assigned risk plan.

Sec. 72. [REVISOR INSTRUCTIONS.]

(a) The revisor shall recodify Minnesota Statutes, section 72A.20, subdivision 4a, as section 72A.201, subdivision 4a.

(b) The revisor shall recodify Minnesota Statutes, section 60A.30 as section 60A.351 and section 60A.31 as section 60A.352 and correct internal references in Minnesota Statutes and Minnesota Rules.

Sec. 73. [REPEALER.]

(a) Minnesota Statutes 1992, sections 72A.45; and 72B.07, are repealed.

(b) Minnesota Rules, parts 2780.4800; 2783.0010; 2783.0020; 2783.0030; 2783.0040; 2783.0050; 2783.0060; 2783.0070; 2783.0080; 2783.0090; and 2783.0100, are repealed. The rates set pursuant to these rules shall continue to apply until changed pursuant to Minnesota Statutes, section 62I.06.

Sec. 74. [EFFECTIVE DATE.]

Section 37 is effective August 1, 1993, and applies to policies and plans issued, renewed, or continued on or after that date. Sections 69 to 72 and 73, paragraph (b), are effective the day following final enactment."

Delete the title and insert:

"A bill for an act relating to insurance; regulating fees, data collection, coverages, notice provisions, enforcement provisions, the Minnesota joint underwriting association and the liquor liability assigned risk plan; enacting the NAIC model regulation relating to reporting requirements for licensees seeking to do business with certain unauthorized multiple employer welfare arrangements; making various technical changes; amending Minnesota Statutes 1992, sections 13.71, by adding subdivisions; 45.024, subdivision 2; 59A.12, by adding a subdivision; 60A.02, by adding a subdivision; 60A.03, subdivisions 5 and 6; 60A.052, subdivision 2; 60A.082; 60A.085; 60A.14, subdivision 1; 60A.19, subdivision 4; 60A.206, subdivision 3; 60A.21, subdivision 2; 60A.36, by adding a subdivision; 60C.22; 60K.06; 60K.14,

subdivision 4; 60K.19, subdivision 5; 61A.02, subdivision 2; 61A.031; 61A.04; 61A.07; 61A.071; 61A.073; 61A.074, subdivision 1; 61A.08; 61A.09, subdivision 1; 61A.092, by adding a subdivision; 61A.12, subdivision 1; 61A.282, subdivision 2; 62A.047; 62A.148; 62A.153; 62A.43, subdivision 4; 62E.19, subdivision 1; 62H.01; 62I.02; 62I.03; 62I.07; 62I.13, subdivisions 1 and 2; 62I.20; 65A.01, subdivision 1; 65A.29, subdivision 7; 65B.49, subdivision 3; 72A.20, subdivision 29; 72A.201, subdivision 9; 72A.41, subdivision 1; 72B.03, subdivision 1; 72B.04, subdivision 2; 176.181, subdivision 2; and 340A.409, subdivisions 2 and 3; proposing coding for new law in Minnesota Statutes, chapter 45; 60A; 61A; 62A; and 62H; repealing Minnesota Statutes 1992, sections 72A.45; and 72B.07; Minnesota Rules, parts 2780.4800; 2783.0010; 2783.0020; 2783.0030; 2783.0040; 2783.0050; 2783.0060; 2783.0070; 2783.0080; 2783.0090; and 2783.0100."

With the recommendation that when so amended the bill pass.

The report was adopted.

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

H. F. No. 1190, A bill for an act relating to the Minnesota historical society; recodifying the historic sites act of 1965; proposing coding for new law in Minnesota Statutes, chapter 138; repealing Minnesota Statutes 1992, sections 138.025; 138.027; 138.52; 138.53; 138.55; 138.56; 138.58; 138.59; 138.60; 138.61; 138.62; 138.63; 138.64; 138.65; and 138.66.

Reported the same back with the following amendments:

Page 10, line 23, after the second period insert "[138.6691]"

Page 10, after line 25, insert:

"Sec. 11. [138.96] [RECORDED MUSIC CENTER.]

Subdivision 1. [DEFINITION.] "Recorded music center" means an area in the state history center to collect recorded music produced in Minnesota which is made by Minnesota performers and composers.

Subd. 2. [COOPERATION.] The historical society shall coordinate collecting activities relating to this act with other Minnesota archives and libraries.

Subd. 3. [NOTIFICATION.] The historical society shall notify and encourage producers of music, including musical groups, to offer one copy of each recorded music item to the historical society for consideration as an addition to its collections. Items the society accepts for deposit shall be a part of the recorded music center.

Sec. 12. [CARVER'S CAVE STUDY.]

The historical society, in consultation and considering recommendations of the city of St. Paul, the department of natural resources and the Indian affairs council, must review the use and interpretation of Carver's Cave historic place in St. Paul, including the potential for a park, picnic area, historic site, interpretive area, or other appropriate use. The society shall report its findings and recommendations to the economic development, infrastructure and regulation finance committee in the house and the state government division of the finance committee in the senate by February 1, 1994."

Page 10, line 26, delete "11" and insert "13"

Page 11, line 1, delete "12" and insert "14"

Amend the title as follows:

Page 1, line 3, after the semicolon insert "providing for a recorded music center; requiring a study of Carver's Cave;"

With the recommendation that when so amended the bill pass and be re-referred to the Committee on Economic Development, Infrastructure and Regulation Finance.

The report was adopted.

Kahn from the Committee on Governmental Operations and Gambling to which was referred:

H. F. No. 1203, A bill for an act relating to state departments and agencies; providing for reports on advisory task forces committees and councils; providing for their expirations; eliminating certain advisory bodies; amending Minnesota Statutes 1992, sections 6.65; 15.059, subdivision 5, and by adding a subdivision; 16B.39, subdivision 1a; 41A.02, subdivision 1; 41A.04, subdivisions 2 and 4; 116J.975; 125.188, subdivision 3; 125.1885, subdivision 3; 129D.16; 148.235, subdivision 2; 246.017, subdivision 2; 246.56, subdivision 2; 256B.0629, subdivision 4; and 256B.433, subdivision 1; 299F.093, subdivision 1; repealing Minnesota Statutes 1992, sections 41.54; 41A.07; 43A.31, subdivision 4; 82.30, subdivision 1; 84.524, subdivisions 1 and 2; 85A.02, subdivision 4; 86A.10, subdivision 1; 116J.645; 116J.984, subdivision 11; 116N.05; 120.064, subdivision 6; 121.87; 145.93, subdivision 2; 148B.20, subdivision 2; 152.02, subdivision 11; 175.008; 184.23; 206.57, subdivision 3; 245.476, subdivision 4; 245.4885, subdivision 4; 256.9745; 256B.0629, subdivisions 1, 2, and 3; 256B.433, subdivision 4; 257.072, subdivision 6; 299F.092, subdivision 9; 299F.097; and 626.5592.

Reported the same back with the following amendments:

Pages 1 and 2, delete section 1

Renumber the sections in sequence

Amend the title as follows:

Page 1, line 6, delete "6.65;"

With the recommendation that when so amended the bill pass.

The report was adopted.

Wenzel from the Committee on Agriculture to which was referred:

H. F. No. 1225, A bill for an act relating to agriculture; providing for surcharges on registered pesticides; amending Minnesota Statutes 1992, section 18E.03, subdivision 5.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 1992, section 18B.01, is amended by adding a subdivision to read:

Subd. 9a. [FIXED LOCATION.] "Fixed location" means all stationary restricted and bulk pesticide facility operations owned or operated by a person located in the same plant location or locality.

Sec. 2. Minnesota Statutes 1992, section 18B.01, is amended by adding a subdivision to read:

Subd. 30a. [SUBSTANTIALLY ALTERING; SUBSTANTIALLY ALTER; SUBSTANTIAL ALTERATION.] "Substantially altering," "substantially alter," or "substantial alteration" means modifying a bulk agricultural chemical storage facility by:

(1) changing the capacity of a safeguard;

(2) adding storage containers in excess of the capacity of a safeguard as required by rule; or

(3) increasing the size of the single largest storage container in a safeguard as approved or permitted by the department of agriculture. This does not include routine maintenance of safeguards, storage containers, appurtenances, piping, mixing, blending, weighing, or handling equipment.

Sec. 3. Minnesota Statutes 1992, section 18B.135, is amended to read:

18B.135 [SALE OF PESTICIDES IN RETURNABLE CONTAINERS AND MANAGEMENT OF UNUSED PORTIONS.]

Subdivision 1. [ACCEPTANCE OF RETURNABLE CONTAINERS.] (a) A person distributing, offering for sale, or selling a pesticide must accept triple-rinsed or power-rinsed empty plastic pesticide containers and the unused portion of pesticide that remains in the original container from a pesticide end user if:

- (1) the pesticide was purchased after July 1, ~~1994~~ 1996; and
- (2) the empty container is prepared for disposal in accordance with label directions and is returned to the place of purchase within the state; and
- (3) a place is collection site has not been designated either in the county or through agreement with other counties for the public to return empty pesticide containers and the unused portion of pesticide for the purpose of recycling or other approved management of pesticide containers.

By February 1 of each year, each county shall notify the commissioner of the county's intention to manage empty pesticide containers.

(b) This subdivision does not prohibit the use of refillable and reusable pesticide containers.

(c) ~~The legislative water commission must prepare a report and make a recommendation to the legislature on the handling of waste pesticide containers and waste pesticides~~ Pesticide containers may not be mixed with other postconsumer plastic recyclables.

(d) Paragraph (a) is not in effect if a practical end market for the pesticide containers collected as determined by the commissioner does not exist.

Subd. 2. [ACCEPTANCE OF UNUSED PORTIONS.] The commissioner shall designate a place in each county to dispose of unused portions of pesticide remaining in the original container from a pesticide end user at least once every three years.

By February 1 of each year, each county shall notify the commissioner of the county's intention to manage unused portions of pesticides in the county. The county may elect to participate in the waste pesticide collection program of the department.

Subd. 3. [RULES.] The commissioner may adopt rules to implement this section, including procedures and standards prescribing the exemption of certain pesticide products and pesticide containers.

Sec. 4. Minnesota Statutes 1992, section 18B.14, subdivision 2, is amended to read:

Subd. 2. [BULK PESTICIDE STORAGE.] (a) A person storing pesticides in containers of a rated capacity of 500 gallons or more for more than ten consecutive days at a bulk pesticide storage facility must obtain a pesticide storage permit from the commissioner as required by rule.

(b) Applications must be on forms provided by the commissioner containing information established by rule. The initial application for a permit must be accompanied by a nonrefundable application fee of \$100 for each location where the pesticides are stored. An application for a facility that includes both fertilizers as regulated under chapter 18C and bulk pesticides as regulated under this chapter shall pay only one application fee of \$100.

(c) The commissioner shall by rule develop and implement a program to regulate bulk pesticides. The rules must include installation of secondary containment devices, storage site security, safeguards, notification of storage site locations, criteria for permit approval, a schedule for compliance, and other appropriate requirements necessary to minimize potential adverse effects on the environment. The rules must conform with existing rules of the pollution control agency.

(d) A person must obtain a permit from the commissioner on forms provided by the commissioner before the person constructs or substantially alters a bulk pesticide storage facility. If an application is incomplete, the commissioner must notify the applicant as soon as possible. The permit must be acted upon within 30 days after receiving a completed application.

(e) An application to substantially alter a facility must be accompanied by a \$50 fee. An application for a facility that includes both fertilizers regulated under chapter 18C and bulk pesticides regulated under this chapter shall pay only one application fee of \$50.

(f) An additional ~~application~~ fee of \$250 must be paid by ~~an applicant~~ a person who begins construction of, or substantially alters, a bulk pesticide agricultural chemical storage facility before a permit is issued by the commissioner. ~~The fee under this paragraph may not be charged if the permit is not acted upon within 30 days after receiving a completed application, except that the \$250 additional fee may not be assessed if the person submits a permit application with the required fee to the commissioner before completing the construction or substantial alteration.~~

Sec. 5. Minnesota Statutes 1992, section 18B.31, subdivision 1, is amended to read:

Subdivision 1. [REQUIREMENT.] (a) Except as provided in paragraph (b), ~~a person no individual may not distribute at wholesale or retail or possess offer for sale or sell a restricted use pesticides or bulk pesticides with an intent to distribute them to an ultimate pesticide to a pesticide end user from any fixed location without a pesticide dealer license.~~

(b) ~~The A pesticide dealer license requirement does not apply to~~ is not required for:

(1) a licensed commercial applicator, noncommercial applicator, or structural pest control applicator who uses restricted use pesticides only as an integral part of a pesticide application service;

(2) a federal, state, county, or municipal agency using restricted use pesticides for its own programs; ~~or~~

(3) a licensed pharmacist, physician, dentist, or veterinarian when administering or dispensing a restricted use pesticide for use in the pharmacist's, physician's, dentist's, or veterinarian's practice; ~~or~~

(4) a person at a fixed location that is not used to offer for sale or sell restricted use or bulk pesticides including, but not limited to, warehouses or other storage sites.

(c) A licensed pesticide dealer may sell restricted use pesticides only to an applicator licensed or certified by the commissioner, unless a sale is allowed by rule.

(d) A pesticide dealer license is required for an individual not located in Minnesota who offers for sale or sells a restricted use or bulk pesticide to a pesticide end user located in Minnesota.

(e) Only one pesticide dealer license is required per fixed location from which an individual offers for sale or sells a restricted use or bulk pesticide to an end user.

Sec. 6. Minnesota Statutes 1992, section 18B.36, subdivision 2, is amended to read:

Subd. 2. [CERTIFICATION.] (a) The commissioner shall prescribe certification requirements and provide training that meets or exceeds United States Environmental Protection Agency standards to certify private applicators and provide information relating to changing technology to help ensure a continuing level of competency and ability to use pesticides properly and safely. The training may be done through cooperation with other government agencies and must be a minimum of three hours in duration.

(b) A person must apply to the commissioner for certification as a private applicator. After completing the certification requirements, which must include an examination as determined by the commissioner, an applicant must be certified as a private applicator to use restricted use pesticides. The certification is for a period of three calendar years from the applicant's nearest birthday including the first year of certification, and expires December 31 of the third year.

(c) The commissioner shall issue a private applicator card to a private applicator.

Sec. 7. Minnesota Statutes 1992, section 18B.37, subdivision 2, is amended to read:

Subd. 2. [COMMERCIAL AND NONCOMMERCIAL APPLICATORS.] (a) A commercial or noncommercial applicator, or the applicator's authorized agent, must maintain a record of pesticides used on each site. Noncommercial applicators must keep records of restricted use pesticides. The record must include the:

- (1) date of the pesticide use;
 - (2) time the pesticide application was completed;
 - (3) brand name of the pesticide, the United States Environmental Protection Agency registration number, and dosage used;
 - (4) number of units treated;
 - (5) temperature, wind speed, and wind direction;
 - (6) location of the site where the pesticide was applied;
 - (7) name and address of the customer;
 - (8) name and signature of applicator, name of company, license number of applicator, and address of applicator company; and
 - (9) any other information required by the commissioner.
- (b) Portions of records not relevant to a specific type of application may be omitted upon approval from the commissioner.
- (c) All information for this record requirement must be contained in a single page document for each pesticide application, 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. An invoice containing the required information may constitute the required record. The commissioner shall make sample forms available to meet the requirements of this paragraph.
- (d) A commercial applicator must give a copy of the record to the customer ~~when the application is completed.~~
- (e) Records must be retained by the applicator, company, or authorized agent for five years after the date of treatment.

Sec. 8. Minnesota Statutes 1992, section 18C.005, subdivision 13, is amended to read:

Subd. 13. [GRADE.] "Grade" means the percentage of total nitrogen (N), available phosphorus (P) or ~~phosphoric acid (P_2O_5)~~ phosphate (P_2O_5), and soluble potassium (K) or soluble potash (~~K_2O~~) (K_2O) stated in whole numbers in the same terms, order, and percentages as in the guaranteed analysis except the grade of bone meals, manures, and similar raw materials may be stated in fractional units, and specialty fertilizers may be stated in fractional units of less than one percent of total nitrogen, available phosphorus or ~~phosphoric acid~~ phosphate, and soluble potassium or soluble potash.

Sec. 9. Minnesota Statutes 1992, section 18C.005, subdivision 35, is amended to read:

Subd. 35. [SUBSTANTIALLY ALTERING; SUBSTANTIALLY ALTER; SUBSTANTIAL ALTERATION.] "Substantially altering," "substantially alter," or "substantial alteration" means modifying a bulk agricultural chemical storage facility by:

- (1) changing the capacity of a safeguard;
- (2) ~~adding additional safeguards or storage containers, or changing existing storage containers, safeguards, appurtenances, or piping, in excess of the capacity of a safeguard as required by rule;~~

(3) increasing the size of the largest storage container in a safeguard as approved or permitted by the department of agriculture; or

(4) adding or changing anhydrous ammonia storage containers or adding ammonia loading or unloading stations. This does not include routine maintenance of existing safeguards, storage containers, appurtenances, and piping, or of existing mixing, blending, weighing, and or handling equipment. For dry bulk fertilizer, a person may decrease storage capacity without a substantial alteration permit and may increase storage capacity up to 150 tons per location annually without a substantial alteration permit.

Sec. 10. Minnesota Statutes 1992, section 18C.115, subdivision 2, is amended to read:

Subd. 2. [ADOPTION OF NATIONAL STANDARDS.] Applicable national standards contained in the ~~1989~~ 1993 official publication, number ~~42~~ 46, of the association of American plant food control officials including the rules and regulations, statements of uniform interpretation and policy, and the official fertilizer terms and definitions, and not otherwise adopted by the commissioner, may be adopted as fertilizer rules of this state.

Sec. 11. Minnesota Statutes 1992, section 18C.211, subdivision 1, is amended to read:

Subdivision 1. [N, P, AND K NUTRIENT CONTENT STATED.] (a) Until the commissioner prescribes the alternative form of guaranteed analysis, it must be stated as provided in this subdivision.

(b) A guaranteed analysis must state the percentage of plant nutrient content, if claimed, in the following form:

"Total Nitrogen (N) percent
Available Phosphoric Acid (P ₂ O ₅)	
Phosphate (P ₂ O ₅) percent
Soluble Potash (K ₂ O) (K ₂ O) percent"

(c) For unacidulated mineral phosphatic materials and basic slag, bone, tankage, and other organic phosphate materials, the total ~~phosphoric acid~~ phosphate or degree of fineness may also be stated.

Sec. 12. Minnesota Statutes 1992, section 18C.215, subdivision 2, is amended to read:

Subd. 2. [BLENDED AND MIXED FERTILIZER.] (a) A distributor who blends or mixes fertilizer to a customer's order without a guaranteed analysis of the final mixture must furnish each purchaser with an invoice or delivery ticket in written or printed form showing the net weight and guaranteed analysis of each of the materials used in the mixture.

~~(b) The invoice or delivery ticket must accompany the delivery.~~

(e) Records of invoices or delivery tickets must be kept for five years after the delivery or application.

Sec. 13. Minnesota Statutes 1992, section 18C.305, subdivision 2, is amended to read:

Subd. 2. [PERMIT FEES.] (a) An application for a new facility must be accompanied by a nonrefundable application fee of \$100 for each location where fertilizer is stored.

(b) An application to substantially alter a facility must be accompanied by a nonrefundable \$50 fee.

~~(c) In addition to the fees under paragraphs (a) and (b), a~~ An additional fee of \$250 must be paid by an applicant a person who begins construction of, or substantial alteration substantially alters a bulk agricultural chemical storage facility before a permit is issued by the commissioner, except that the \$250 additional fee may not be assessed if the person submits a permit application with the required fee to the commissioner before completing the construction or substantial alteration.

(d) An application for a facility that includes both fertilizers, as regulated under this chapter, and pesticides as regulated under chapter 18B shall pay only one application fee of \$100.

Sec. 14. Minnesota Statutes 1992, section 18D.103, is amended by adding a subdivision to read:

Subd. 3. [EXCEPTION.] A responsible party or an owner of property is not required to report an incident to the commissioner under this section if the amount of pesticide involved in the release is less than the maximum amount of the pesticide that, consistent with its label, can be applied to one acre of agricultural crop land unless the release occurred into or near surface or groundwater.

Sec. 15. Minnesota Statutes 1992, section 18D.105, is amended by adding a subdivision to read:

Subd. 3a. [PASSIVE BIOREMEDIATION.] Passive bioremediation must be used for pesticide cleanups whenever an assessment of the site determines that there is a low potential risk to public health and the environment. The assessment may include the soil types involved, leaching potential, underlying geology, proximity to ground and surface water, and soil half-life of the pesticides.

Sec. 16. Minnesota Statutes 1992, section 18E.03, subdivision 2, is amended to read:

Subd. 2. [EXPENDITURES.] (a) Money in the agricultural chemical response and reimbursement account may only be used:

(1) to pay for the commissioner's responses to incidents under chapters 18B, 18C, and 18D that are not eligible for payment under section 115B.20, subdivision 2;

(2) to pay for emergency responses that are otherwise unable to be funded; and

(3) to reimburse and pay corrective action costs under section 18E.04; and

(4) by the board to reimburse the commissioner for board staff and other administrative costs up to \$200,000 per fiscal year.

(b) Money in the agricultural chemical response and reimbursement account is appropriated to the commissioner to make payments as provided in this subdivision.

Sec. 17. Minnesota Statutes 1992, section 18E.03, subdivision 5, is amended to read:

Subd. 5. [FEE AFTER 1990.] (a) The response and reimbursement fee for calendar years after calendar year 1990 consists of the surcharges in this subdivision and shall be collected by the commissioner. The amount of the response and reimbursement fee shall be determined and imposed annually as required under subdivision 3. The amount of the surcharges shall be proportionate to the surcharges in subdivision 4.

(b) The commissioner shall impose a surcharge on pesticides registered under chapter 18B to be collected as a surcharge on the registration application fee under section 18B.26, subdivision 3, as a percent of gross sales of the pesticide in the state and sales of the pesticide for use in the state during the previous calendar year, except the surcharge may not be imposed on pesticides that are sanitizers or disinfectants as determined by the commissioner. No surcharge is required if the surcharge amount based upon percent of annual gross sales is less than \$10. Pesticides that are sanitizers or disinfectants that are exempted from surcharges are ineligible for reimbursement or payment under this chapter. The registrant shall determine when and which pesticides are sold or used in this state. The registrant shall secure sufficient sales information of pesticides distributed into this state from distributors and dealers, regardless of distributor location, to make a determination. Sales of pesticides in this state and sales of pesticides for use in this state by out-of-state distributors are not exempt and must be included in the registrant's annual report, as required under section 18B.26, subdivision 3, paragraph (c), and fees shall be paid by the registrant based upon those reported sales. Sales of pesticides in the state for use outside of the state are exempt from the surcharge in this paragraph if the registrant properly documents the sale locations and the distributors.

(c) The commissioner shall impose a fee per ton surcharge on the inspection fee under section 18C.425, subdivision 6, for fertilizers, soil amendments, and plant amendments.

(d) The commissioner shall impose a surcharge on the application fee of persons licensed under chapters 18B and 18C consisting of:

(1) a \$75 surcharge for each site where pesticides are stored or distributed, to be imposed as a surcharge on pesticide dealer application fees under section 18B.31, subdivision 5;

(2) a \$75 surcharge for each site where a fertilizer, plant amendment, or soil amendment is distributed, to be imposed on persons licensed under sections 18C.415 and 18C.425;

(3) a \$50 surcharge to be imposed on a structural pest control applicator license application under section 18B.32, subdivision 6, for business license applications only;

(4) a \$20 surcharge to be imposed on commercial applicator license application fees under section 18B.33, subdivision 7;

(5) a \$20 surcharge to be imposed on noncommercial applicator license application fees under section 18B.34, subdivision 5, except a surcharge may not be imposed on a noncommercial applicator that is a state agency, a political subdivision of the state, the federal government, or an agency of the federal government; and

(6) a surcharge for licensed lawn service applicators under chapter 18B or 18C, to be imposed on license application fees.

(e) If a person has more than one license for a site, only one surcharge may be imposed to cover all the licenses for the site.

(f) A \$1,000 fee shall be imposed on each site where pesticides are stored and sold for use outside of the state unless:

(1) the distributor properly documents that it has less than \$2,000,000 per year in wholesale value of pesticides stored and transferred through the site; or

(2) the registrant pays the surcharge under paragraph (b) and the registration fee under section 18B.26, subdivision 3, for all of the pesticides stored at the site and sold for use outside of the state.

Sec. 18. Minnesota Statutes 1992, section 21.85, subdivision 10, is amended to read:

Subd. 10. [COMMISSIONER MAY ALTER REQUIREMENTS IN EMERGENCIES.] In the event of acute shortages of any seed or seeds, or the occurrence of other conditions which in the opinion of the commissioner create an emergency which would make impractical the enforcement of any requirement of sections 21.80 to 21.92 relating to the percentage of purity and, weed seed content, and the variety name of any seed or seeds, the commissioner may temporarily change and alter any requirement relating to percentage of purity and, weed seed content, and the variety name for the duration of the emergency.

Sec. 19. Minnesota Statutes 1992, section 325F.19, subdivision 7, is amended to read:

Subd. 7. "Presenting a clear and present danger" means known to cause physical damage to structure or health hazards to occupants through continuing direct contact or release of hazardous substances as defined in section 24.33 115B.02.

Sec. 20. [OILSEED PROCESSING; FEASIBILITY.]

The commissioner of agriculture shall conduct a study of the feasibility of developing a producer-controlled oilseed production facility to process canola, crambe, and other grains. Consideration shall be given to grants, loans, tax incentives, and bonding. The commissioner shall work with AURI, the University of Minnesota, and other interested parties. The commissioner shall report the findings of the study to the house and senate agriculture committees by January 15, 1994.

Sec. 21. [APPROPRIATIONS.]

\$53,500 is appropriated from the general fund to the commissioner of agriculture for the fiscal biennium ending June 30, 1995, for operation of the tractor and machinery safety training for Minnesota youth program.

Sec. 22. [REPEALER.]

Minnesota Statutes 1992, sections 18B.07, subdivision 3; 18C.211, subdivision 3; 18C.215, subdivision 3; 24.32; 24.33; 24.34; 24.35; 24.36; 24.37; 24.38; 24.39; 24.40; 24.41; 24.42; 25.46; and 25.47, are repealed.

Sec. 23. [EFFECTIVE DATE.]

Section 3 is effective July 1, 1996."

Delete the title and insert:

"A bill for an act relating to agriculture; authorizing use of money in the agricultural chemical response and reimbursement account for administrative costs; exempting certain pesticides from the ACRRA surcharge; appropriating money; repealing the hazardous substance labeling act; amending Minnesota Statutes 1992, sections 18B.01, by adding subdivisions; 18B.135; 18B.14, subdivision 2; 18B.31, subdivision 1; 18B.36, subdivision 2; 18B.37, subdivision 2; 18C.005, subdivisions 13 and 35; 18C.115, subdivision 2; 18C.211, subdivision 1; 18C.215, subdivision 2; 18C.305, subdivision 2; 18D.103, by adding a subdivision; 18D.105, by adding a subdivision; 18E.03, subdivisions 2 and 5; 21.85, subdivision 10; 325F.19, subdivision 7; repealing Minnesota Statutes 1992, sections 18B.07, subdivision 3; 18C.211, subdivision 3; 18C.215, subdivision 3; 24.32; 24.33; 24.34; 24.35; 24.36; 24.37; 24.38; 24.39; 24.40; 24.41; 24.42; 25.46; and 25.47."

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.

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

H. F. No. 1424, A bill for an act relating to pollution control; exempting certain storage tanks from notification, environmental protection, and tank installer training and certification requirements; amending Minnesota Statutes 1992, section 116.47.

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

The report was adopted.

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

H. F. No. 1529, A bill for an act relating to state government; reorganizing, consolidating, and restructuring state agencies and departments; requiring establishment of worker participation committees before agency restructuring; creating the department of environmental protection and conservation, the board of environmental review, and the office of assistance and public advocacy; transferring all powers and duties of the pollution control agency, the department of natural resources, the environmental quality board, the board of water and soil resources, the office of waste management, the harmful substances compensation board, the petroleum tank release compensation board, and the agricultural chemical response compensation board; transferring certain powers and duties of the departments of agriculture, health, public safety, trade and economic development, and transportation; authorizing rulemaking; appropriating money; amending Minnesota Statutes 1992, sections 15A.081, subdivision 1; and 43A.045; proposing coding for new law as Minnesota Statutes, chapters 100A; and 100B.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. [REORGANIZATION; GOALS.]

The legislature finds that it may be desirable to reorganize state services relating to the protection of the environment, protection of farmland, and the management of natural resources to achieve the following goals:

- (1) sustainable development throughout all regions of the state and all sectors of the economy;
- (2) improved delivery of services;
- (3) a preventive approach to environmental degradation;
- (4) citizen participation in all relevant decision-making processes and at meaningful points in the processes; and
- (5) progressively less air, land, and water pollution.

Sec. 2. [REORGANIZATION; OUTCOMES.]

Any reorganization must achieve the following outcomes:

- (1) increased citizen access to pertinent, understandable information relating to environmental protection, farmland protection, and natural resources management;
- (2) better citizen representation, access, and information through an office of public information and advocacy;
- (3) an ecosystem-based, integrated service delivery system that includes the elimination of multiple access points to receive the same or related services;
- (4) the flexibility to enable state and local governments to coordinate and cooperate as well as identify and address existing and emerging environmental issues of state, national, and international import; and
- (5) a commitment to staff development resources sufficient to implement the reorganization.

Sec. 3. [LEGISLATIVE TASK FORCE ON STATE ADMINISTRATIVE ENVIRONMENTAL STRUCTURE.]

Subdivision 1. [TASK FORCE.] A legislative task force on administrative environmental structure is created to recommend to the legislature an organizational structure for the state that best implements the environmental policy of the state and delineates the responsibility of state government in relation to that policy. The task force will consist of ten members, five appointed by the speaker of the house of representatives and five appointed by the rules and administration subcommittee on committees of the senate. At least two members from each chamber must be members of the minority party in that chamber. The task force shall elect one member from each chamber to serve as cochair of the task force who shall alternately preside over hearings, unless they agree otherwise.

The house research department, senate counsel and research, and other legislative staff offices shall provide staff for the commission.

Subd. 2. [DUTIES.] (a) In accordance with the environmental policy codified in Minnesota Statutes, section 116D.02, subdivision 1, the responsibility of state government in relation to that policy codified in Minnesota Statutes, section 116D.02, subdivision 2, and the actions required of state agencies under Minnesota Statutes, section 116D.03, the task force shall:

- (1) examine all recent analyses, critiques, studies, and recommendations related to state administrative environmental structure that have been completed by June 1, 1993, including, but not limited to, the commission on reform and efficiency study and recommendations relating to environmental structure, structures in other states and proposals made by the governor, members of the legislature, state agencies, or other groups;

(2) gather information from interested groups or individuals that may not have participated in the available analyses, critiques, studies, and recommendations; and

(3) by December 15, 1993, prepare a proposal for legislation that the task force determines will best organize the implementation, administration, and enforcement of the state's environmental policy in an efficient, accessible, and environmentally sustainable and economically viable manner and will best recognize the responsibility of state government in relation to that policy.

(b) In developing its proposal, the task force shall seek to achieve:

(1) a structure based on interdisciplinary, integrated resource management in order to protect and enhance the physical environment of the state;

(2) a structure that promotes and maintains a system that meets the needs of the present without compromising the ability of future generations to meet their own needs and that incorporates a process for change in which the use of natural and other resources, the direction of investments, the orientation of technological development, and institutional change are made consistent with future as well as present needs;

(3) a structure that facilitates the protection of the diversity of plant and animal life in Minnesota;

(4) a flexible structure that enables state agencies to identify and address existing and emerging environmental issues of state, national, and international import;

(5) an integrated approach based on ecosystems for the delivery of services, including decentralization of service delivery;

(6) increased citizen access to pertinent, understandable information and procedures for implementation and enforcement of environmental protection and natural resources management;

(7) meaningful citizen participation in all relevant policy and decision-making processes;

(8) a structure that recognizes legitimate conflicts of interest and provides for their resolution;

(9) clarity of the mission of all state agencies in light of the state's environmental policy and the responsibility and accountability of those agencies in relation to that policy;

(10) a preventive approach to environmental degradation;

(11) a balanced system of regulatory controls, financial incentives, technical assistance, and educational components to achieve environmental goals and compliance with law; and

(12) a structure that can identify and capture cost savings where those savings can be made without reducing the ability to implement and enforce the state's environmental policy.

(c) The proposal must include provisions to ensure continuity of services, as smooth a transition as possible if structural changes are recommended, and meaningful public employee and public agency participation in determining and implementing future administrative environmental structures.

Subd. 3. [PUBLIC HEARINGS.] As soon as possible after development of the proposal, the task force shall distribute the proposal to all interested persons and shall hold hearings throughout the state designed to gather responses to the proposal from all perspectives. Hearings must be held in convenient locations and at convenient times to maximize the ability of the public to participate in the hearings.

Subd. 4. [FINAL LEGISLATIVE PROPOSAL.] The task force shall revise the proposal, as it determines advisable, and shall issue a final proposal by February 15, 1994, for consideration by the legislature during the 1994 legislative session. The task force is abolished effective May 1, 1994.

Sec. 4. [EMPLOYEE PARTICIPATION COMMITTEE.]

(a) Before any restructuring of executive branch agencies, a committee including representatives of employees and employers within each affected agency must be established and be given adequate time to perform the functions prescribed by paragraph (b). Each exclusive representative of employees shall select a committee member from each of its bargaining units in each affected agency. The head of each agency shall select an employee member from each unit of employees not represented by an exclusive representative. The agency head shall also appoint one or more committee members to represent the agency. The number of members appointed by the agency head, however, may not exceed the total number of members representing bargaining units.

(b) A committee established under paragraph (a) shall:

- (1) identify tasks related to agency reorganization and adopt plans for addressing those tasks;
- (2) identify other employer and employee issues related to reorganization and adopt plans for addressing those issues;
- (3) adopt detailed plans for providing retraining for affected employees; and
- (4) guide the implementation of the reorganization.

Sec. 5. [EXAMINATION OF AGENCIES' MISSION, POWERS, AND DUTIES.]

Subdivision 1. [AGENCIES.] The mission, powers, and duties of the department of natural resources, the board of water and soil resources, the office of waste management, the pollution control agency, the environmental quality board, the harmful substances compensation board, the petroleum tank release compensation board, and the agricultural chemical response board shall be examined by the task force.

Subd. 2. [POWERS AND DUTIES.] (a) The following powers and duties of the department of agriculture shall be examined:

- (1) regulation of fertilizers, soil amendments, agricultural liming, and plant amendments under Minnesota Statutes, chapter 18C;
- (2) pesticide control under Minnesota Statutes, chapter 18B;
- (3) agriculture chemical incident response and cleanup under Minnesota Statutes, chapter 18D;
- (4) chemical incident reimbursement under Minnesota Statutes, chapter 18E;
- (5) urban forest promotion under Minnesota Statutes, section 17.86;
- (6) mosquito abatement under Minnesota Statutes, sections 18.041 to 18.161;
- (7) groundwater protection under Minnesota Statutes, chapter 103H; and
- (8) oil and hazardous substance discharge preparedness under Minnesota Statutes, chapter 115E.

(b) The following powers and duties of the department of health shall be examined:

- (1) the water well program under Minnesota Statutes, chapter 103I;
- (2) the safe drinking water program under Minnesota Statutes, sections 144.381 to 144.387;
- (3) health risk assessment under Minnesota Statutes, section 115B.17, subdivision 10;
- (4) domestic water supply protection under Minnesota Statutes, sections 144.35 to 144.37;
- (5) asbestos contractor licensing under Minnesota Statutes, sections 326.70 to 326.81;

- (6) public health laboratory regulation under Minnesota Statutes, section 144.98;
- (7) lead abatement under Minnesota Statutes, sections 144.871 to 144.879;
- (8) hazardous substance exposure under Minnesota Statutes, section 145.94;
- (9) mosquito research under Minnesota Statutes, section 144.95;
- (10) water supply monitoring and health assessments under Minnesota Statutes, section 473.845, subdivision 2; and
- (11) health risk limits under Minnesota Statutes, section 103H.201.
- (c) The following powers and duties of the department of trade and economic development shall be examined:
 - (1) energy loans under Minnesota Statutes, sections 216C.36 and 216C.37;
 - (2) outdoor recreation grants under Minnesota Statutes, section 116J.406; and
 - (3) environmental permit coordination under Minnesota Statutes, sections 116C.22 to 116C.34.
- (d) The following powers and duties of the department of public service shall be examined: energy conservation under Minnesota Statutes, sections 216C.01 to 216C.35 and 216C.373 to 216C.381.
- (e) The following powers and duties of the department of transportation shall be examined:
 - (1) oil and hazardous substance discharge preparedness under Minnesota Statutes, chapter 115E; and
 - (2) hazardous waste shipment and licensing under Minnesota Statutes, sections 221.033 to 221.036 and 221.172.
- (f) The powers and duties of the metropolitan council relating to metropolitan solid and hazardous waste under Minnesota Statutes, sections 473.801 to 473.849, shall be examined.

Sec. 6. [BUDGET FOR NEXT BIENNIUM.]

The budget may not require the layoff of classified or unclassified employees in departments and agencies included under section 5 that are covered by a collective bargaining agreement except as provided in a plan negotiated under Minnesota Statutes, chapter 179A, that provides options to layoff for employees who would be affected. The governor's budget must conform to any reorganization plan enacted by the legislature in 1994 in response to recommendations submitted by the task force under section 3. If no reorganization plan is enacted in 1994, the governor's budget must take into account the reorganization recommendations of the task force, as well as any additional or alternative recommendations of the governor.

Sec. 7. [APPROPRIATION.]

\$..... is appropriated from the general fund to the legislative coordinating commission for the purposes of section 1.

Sec. 8. [EFFECTIVE DATE.]

This act is effective the day following final enactment."

Delete the title and insert:

"A bill for an act relating to state government; reviewing the possible reorganization and consolidation of agencies and departments with environmental and natural resource functions; creating a legislative task force; requiring establishment of worker participation committees before possible agency restructuring; appropriating money."

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

The report was adopted.

Skoglund from the Committee on Judiciary to which was referred:

H. F. No. 1551, A bill for an act relating to courts; authorizing the commissioner of revenue to disclose certain tax information to the court for purposes of determining public defender eligibility; providing for funding of a screener-collector position in the eighth judicial district; authorizing payment of fines and other financial obligations of criminal defendants by credit card; appropriating money; amending Minnesota Statutes 1992, sections 270B.14, by adding a subdivision; 357.021, subdivision 1a; and 609.101, subdivision 4; proposing coding for new law in Minnesota Statutes, chapter 609.

Reported the same back with the following amendments:

Pages 1 to 4, delete sections 2, 3, 4, and 5

Delete the title and insert:

"A bill for an act relating to courts; authorizing the commissioner of revenue to disclose certain tax information to the court for purposes of determining public defender eligibility; amending Minnesota Statutes 1992, section 270B.14, by adding a subdivision."

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

The report was adopted.

SECOND READING OF HOUSE BILLS

H. F. Nos. 258, 318, 489, 520, 543, 574, 608, 687, 720, 783, 922, 947, 984, 1081, 1094, 1203 and 1424 were read for the second time.

SECOND READING OF SENATE BILLS

S. F. Nos. 198 and 605 were read for the second time.

INTRODUCTION AND FIRST READING OF HOUSE BILLS

The following House Files were introduced:

Sarna introduced:

H. F. No. 1708, A bill for an act relating to insurance; automobile; regulating commercial automobile insurance coverage; prohibiting the use of certain information by insurers; amending Minnesota Statutes 1992, section 72A.20, by adding a subdivision.

The bill was read for the first time and referred to the Committee on Financial Institutions and Insurance.

Rice, for the Committee on Economic Development, Infrastructure and Regulation Finance, introduced:

H. F. No. 1709, A bill for an act relating to the organization and operation of state government; appropriating money for the department of transportation and other agencies with certain conditions; fixing and limiting accounts and fees; amending Minnesota Statutes 1992, sections

The bill was read for the first time and referred to the Committee on Economic Development, Infrastructure and Regulation Finance.

Asch, McCollum and Greiling introduced:

H. F. No. 1710, A bill for an act relating to the legislature; compensation of legislators; amending Minnesota Statutes 1992, section 3.099, subdivision 1.

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

Kelley and Rhodes introduced:

H. F. No. 1711, A bill for an act relating to railroads; prohibiting trains failing to meet federal noise regulations from movement at night in cities and towns; imposing a penalty; amending Minnesota Statutes 1992, sections 218.041, subdivision 2; and 219.97, by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapter 219.

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

Orfield introduced:

H. F. No. 1712, A bill for an act relating to crimes; providing that prosecution for the crime of fleeing a peace officer by means of a motor vehicle is not a bar to prosecution of any other crime contemporaneously committed; amending Minnesota Statutes 1992, section 609.035.

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

Reding and Haukoos introduced:

H. F. No. 1713, A bill for an act relating to crimes; permitting the advertising of games of chance and lotteries legally operated under the laws of another jurisdiction; permitting the conduct and advertising of games of chance and lotteries by certain business, charitable, religious, social, or commercial organizations where the game is clearly occasional and ancillary to the primary business or activity of the organization; amending Minnesota Statutes 1992, section 609.761, by adding a subdivision.

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

Sarna introduced:

H. F. No. 1714, A bill for an act relating to taxation; property; reducing the class rates for noncommercial seasonal recreational residential property; amending Minnesota Statutes 1992, sections 273.13, subdivision 25; and 273.1398, subdivision 1.

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

Lynch introduced:

H. F. No. 1715, A bill for an act relating to health; regulating health maintenance organizations; requiring coverage for speech apraxia and severe phonological disorder; proposing coding for new law in Minnesota Statutes, chapter 62D.

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

Rukavina; Anderson, I.; Rest; Long and Blatz introduced:

H. F. No. 1716, A bill for an act relating to taxation; extending the date by which property qualifies for homestead treatment; amending Minnesota Statutes 1992, section 273.124, subdivision 9; repealing Minnesota Statutes 1992, section 273.124, subdivision 16.

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

Lourey, Neary, Trimble, Rhodes and McCollum introduced:

H. F. No. 1717, A resolution memorializing the President and Congress to establish new priorities in spending and budgeting policies.

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

Lourey, Solberg and Jennings introduced:

H. F. No. 1718, A bill for an act relating to state forests; granting counties a 50 percent share of state forest income; appropriating funds for payment; affirming counties rescission of agreements for forest land management; amending Minnesota Statutes 1992, section 89.035; proposing coding for new law in Minnesota Statutes, chapter 89.

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

MESSAGES FROM THE SENATE

The following messages were received from the Senate:

Madam Speaker:

I hereby announce the passage by the Senate of the following Senate Files, herewith transmitted:

S. F. Nos. 394, 485, 589, 663, 361, 406, 409, 452, 582 and 629.

PATRICK E. FLAHAVEN, Secretary of the Senate

Madam Speaker:

I hereby announce the passage by the Senate of the following Senate Files, herewith transmitted:

S. F. Nos. 250, 270, 431 and 700.

PATRICK E. FLAHAVEN, Secretary of the Senate

FIRST READING OF SENATE BILLS

S. F. No. 394, A bill for an act relating to financial institutions; permitting contracts between financial institutions to accept deposits and honor withdrawals; proposing coding for new law in Minnesota Statutes, chapter 47.

The bill was read for the first time and referred to the Committee on Financial Institutions and Insurance.

S. F. No. 485, A bill for an act relating to the city of Faribault; providing for the civil service status of certain officers.

The bill was read for the first time.

Rodosovich moved that S. F. No. 485 and H. F. No. 812, now on General Orders, be referred to the Chief Clerk for comparison. The motion prevailed.

S. F. No. 589, A bill for an act relating to the St. Anthony Falls heritage board; permitting the mayor of Minneapolis and the chair of the Hennepin board of commissioners to designate a representative to the board; amending Minnesota Statutes 1992, section 138.763, subdivision 1.

The bill was read for the first time.

Rice moved that S. F. No. 589 and H. F. No. 680, now on General Orders, be referred to the Chief Clerk for comparison. The motion prevailed.

S. F. No. 663, A bill for an act relating to elections; authorizing the filing officer to keep from the ballot the name of a person who is a convicted felon, under guardianship, or found incompetent; amending Minnesota Statutes 1992, section 204B.10, by adding a subdivision.

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

S. F. No. 361, A bill for an act relating to public safety; extending existence of Minnesota advisory council on fire protection systems; amending Minnesota Statutes 1992, section 299M.02, subdivision 1.

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

S. F. No. 406, A bill for an act relating to local government; authorizing a local unit of government which self-insures health benefits for employees to enroll employees of the exclusive representative of its employees in those plans; amending Minnesota Statutes 1992, section 471.617, by adding a subdivision.

The bill was read for the first time.

Huntley moved that S. F. No. 406 and H. F. No. 444, now on General Orders, be referred to the Chief Clerk for comparison. The motion prevailed.

S. F. No. 409, A bill for an act relating to retirement; Minneapolis employees retirement fund; amending Minnesota Statutes 1992, sections 422A.05, subdivisions 1 and 2a; 422A.08, subdivision 5, and by adding a subdivision; and 422A.101, subdivision 1.

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

S. F. No. 452, A bill for an act relating to civil commitment; clarifying time limitations for appeal under the civil commitment act; amending Minnesota Statutes 1992, section 253B.23, subdivision 7.

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

S. F. No. 582, A bill for an act relating to motor vehicles; extending validity period of nonresident temporary vehicle permits; amending Minnesota Statutes 1992, section 168.091, subdivision 1.

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

S. F. No. 629, A bill for an act relating to public employment; permitting interest arbitration on retired public employee group insurance coverage for units of essential employees; amending Minnesota Statutes 1992, section 179A.16, subdivision 9.

The bill was read for the first time.

Johnson, R., moved that S. F. No. 629 and H. F. No. 819, now on General Orders, be referred to the Chief Clerk for comparison. The motion prevailed.

S. F. No. 250, A bill for an act relating to cities; limiting the service of charter commission members; fixing procedures for charter amendments; amending Minnesota Statutes 1992, sections 410.05, subdivision 2; and 410.12, subdivision 3.

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

S. F. No. 270, A bill for an act relating to elections; changing certain margins requiring automatic recounts; amending Minnesota Statutes 1992, section 204C.35, subdivision 1.

The bill was read for the first time.

Opatz moved that S. F. No. 270 and H. F. No. 516, now on General Orders, be referred to the Chief Clerk for comparison. The motion prevailed.

S. F. No. 431, A bill for an act relating to public administration; providing that government records may be stored on optical imaging systems and retained in that format only; amending Minnesota Statutes 1992, sections 15.17, subdivision 1; and 138.17, by adding a subdivision.

The bill was read for the first time.

Bishop moved that S. F. No. 431 and H. F. No. 318, now on Technical General Orders, be referred to the Chief Clerk for comparison. The motion prevailed.

S. F. No. 700, A bill for an act relating to horse racing; permitting two class A licenses within the seven-county metropolitan area; permitting the state fair to apply for a pari-mutuel horse racing license; permitting distributions from the breeders' fund for Minnesota-bred horses racing in other racing jurisdictions; amending Minnesota Statutes 1992, sections 240.06, subdivisions 5 and 5a; 240.09, subdivision 1; and 240.18, subdivision 1.

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

CONSENT CALENDAR

H. F. No. 1528 was reported to the House.

Lasley moved that H. F. No. 1528 be continued on the Consent Calendar. The motion prevailed.

H. F. No. 259, A bill for an act relating to local government; providing for the publication of certain accounts and delinquent property tax information; amending Minnesota Statutes 1992, sections 281.13; 281.23, subdivision 3; and 375.17.

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 130 yeas and 0 nays as follows:

Those who voted in the affirmative were:

Abrams	Dauner	Haukoos	Krueger	Murphy	Rest	Trimble
Anderson, I.	Davids	Hausman	Lasley	Neary	Rhodes	Tunheim
Anderson, R.	Dawkins	Holsten	Leppik	Nelson	Rice	Van Dellen
Asch	Dehler	Hugoson	Lieder	Ness	Rodosovich	Vellenga
Battaglia	Delmont	Huntley	Limmer	Olson, K.	Rukavina	Vickerman
Bauerly	Dempsey	Jacobs	Lindner	Olson, M.	Sarna	Wagenius
Beard	Dorn	Jaros	Lourey	Onnen	Seagren	Waltman
Bergson	Erhardt	Jefferson	Luther	Opatz	Sekhon	Weaver
Bertram	Evans	Jennings	Lynch	Orenstein	Simoneau	Wejcman
Bettermann	Farrell	Johnson, A.	Macklin	Orfield	Skoglund	Welle
Bishop	Frerichs	Johnson, R.	Mahon	Osthoff	Smith	Wenzel
Blatz	Garcia	Johnson, V.	Mariani	Ostrom	Solberg	Winter
Brown, C.	Girard	Kahn	McCollum	Ozment	Sparby	Wolf
Brown, K.	Goodno	Kalis	McGuire	Pauly	Stanis	Worke
Carlson	Greenfield	Kelso	Milbert	Pawlenty	Steensma	Workman
Carruthers	Greiling	Kinkel	Molnau	Pelowski	Sviggum	Spk. Long
Clark	Gruenes	Klinzing	Morrison	Perlt	Swenson	
Commers	Gutknecht	Koppendrayner	Mosel	Pugh	Tomassoni	
Cooper	Hasskamp	Krinkie	Munger	Reding	Tompkins	

The bill was passed and its title agreed to.

H. F. No. 785, A bill for an act relating to retirement; survivor benefits payable by the Minneapolis police relief association; amending Minnesota Statutes 1992, section 353B.11, subdivisions 4 and 5; and Laws 1992, chapters 454, section 3; and 471, article 1, section 10, subdivision 1; repealing Laws 1992, chapter 454, section 1.

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 130 yeas and 0 nays as follows:

Those who voted in the affirmative were:

Abrams	Bauerly	Bishop	Carruthers	Davids	Dorn	Garcia
Anderson, I.	Beard	Blatz	Clark	Dawkins	Erhardt	Girard
Anderson, R.	Bergson	Brown, C.	Commers	Dehler	Evans	Goodno
Asch	Bertram	Brown, K.	Cooper	Delmont	Farrell	Greenfield
Battaglia	Bettermann	Carlson	Dauner	Dempsey	Frerichs	Greiling

Gruenes	Johnson, V.	Lourey	Neary	Pelowski	Smith	Wagenius
Gutknecht	Kahn	Luther	Nelson	Perlt	Solberg	Waltman
Hasskamp	Kalis	Lynch	Ness	Pugh	Sparby	Weaver
Haukoos	Kelso	Macklin	Olson, K.	Reding	Stanisus	Wejcman
Hausman	Kinkel	Mahon	Olson, M.	Rest	Steensma	Welle
Holsten	Klinzing	Mariani	Onnen	Rhodes	Sviggum	Wenzel
Hugoson	Koppendrayner	McCollum	Opatz	Rice	Swenson	Winter
Huntley	Krinkie	Milbert	Orenstein	Rodosovich	Tomassoni	Wolf
Jacobs	Krueger	Molnau	Orfield	Rukavina	Tompkins	Worke
Jaros	Lasley	Morrison	Osthoff	Sarna	Trimble	Workman
Jefferson	Leppik	Mosel	Ostrom	Seagren	Tunheim	Spk. Long
Jennings	Lieder	Munger	Ozment	Sekhon	Van Dellen	
Johnson, A.	Limmer	Murphy	Pauly	Simoneau	Vellenga	
Johnson, R.	Lindner		Pawlenty	Skoglund	Vickerman	

The bill was passed and its title agreed to.

H. F. No. 807, A bill for an act relating to retirement; the Minneapolis fire department relief association; setting service pension rates; amending Minnesota Statutes 1992, section 352B.07, subdivision 3; repealing Laws 1971, chapter 542.

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	Davidson	Hausman	Lasley	Neary	Rice	Van Dellen
Anderson, I.	Dawkins	Holsten	Leppik	Nelson	Rodosovich	Vellenga
Anderson, R.	Dehler	Hugoson	Lieder	Ness	Rukavina	Vickerman
Asch	Delmont	Huntley	Limmer	Olson, K.	Sarna	Wagenius
Battaglia	Dempsey	Jacobs	Lindner	Olson, M.	Seagren	Waltman
Beard	Dorn	Jaros	Lourey	Onnen	Sekhon	Weaver
Bergson	Erhardt	Jefferson	Luther	Opatz	Simoneau	Wejcman
Bertram	Evans	Jennings	Lynch	Orenstein	Skoglund	Welle
Bettermann	Farrell	Johnson, A.	Macklin	Orfield	Smith	Wenzel
Bishop	Frerichs	Johnson, R.	Mahon	Osthoff	Solberg	Winter
Blatz	Garcia	Johnson, V.	Mariani	Ostrom	Sparby	Wolf
Brown, C.	Girard	Kahn	McCollum	Pauly	Stanisus	Worke
Brown, K.	Goodno	Kalis	McGuire	Pawlenty	Steensma	Workman
Carlson	Greenfield	Kelso	Milbert	Pelowski	Sviggum	Spk. Long
Carruthers	Greiling	Kinkel	Molnau	Perlt	Swenson	
Clark	Gruenes	Klinzing	Morrison	Pugh	Tomassoni	
Commers	Gutknecht	Koppendrayner	Mosel	Reding	Tompkins	
Cooper	Hasskamp	Krinkie	Munger	Rest	Trimble	
Dauner	Haukoos	Krueger	Murphy	Rhodes	Tunheim	

The bill was passed and its title agreed to.

H. F. No. 893, A bill for an act relating to local government; specifying the prosecuting attorney for certain offenses; amending Minnesota Statutes 1992, section 487.25, subdivision 10.

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	Dauner	Haukoos	Krueger	Murphy	Rest	Tunheim
Anderson, I.	Davids	Hausman	Lasley	Neary	Rhodes	Van Dellen
Anderson, R.	Dawkins	Holsten	Leppik	Nelson	Rice	Vellenga
Asch	Dehler	Hugoson	Lieder	Ness	Rodosovich	Vickerman
Battaglia	Delmont	Huntley	Limmer	Olson, K.	Rukavina	Wagenius
Bauerly	Dempsey	Jacobs	Lindner	Olson, M.	Sarna	Waltman
Beard	Dorn	Jaros	Lourey	Onnen	Seagren	Weaver
Bergson	Erhardt	Jefferson	Luther	Opatz	Sekhon	Wejcman
Bertram	Evans	Jennings	Lynch	Orenstein	Simoneau	Welle
Bettermann	Farrell	Johnson, A.	Macklin	Orfield	Skoglund	Wenzel
Bishop	Frerichs	Johnson, R.	Mahon	Osthoff	Smith	Winter
Blatz	Garcia	Johnson, V.	Mariani	Ostrom	Solberg	Wolf
Brown, C.	Girard	Kahn	McCollum	Ozment	Sparby	Worke
Brown, K.	Goodno	Kalis	McGuire	Pauly	Stanis	Workman
Carlson	Greenfield	Kelso	Milbert	Pawlenty	Steensma	Spk. Long
Carruthers	Greiling	Kinkel	Molnau	Pelowski	Sviggum	
Clark	Gruenes	Klinzing	Morrison	Perlt	Swenson	
Commers	Gutknecht	Koppendrayner	Mosel	Pugh	Tomassoni	
Cooper	Hasskamp	Krinkie	Munger	Reding	Tompkins	

The bill was passed and its title agreed to.

H. F. No. 951, A bill for an act relating to the city of Duluth; authorizing the transfer of money from the gas division account in the public utility fund to the general fund; amending Laws 1951, chapter 507, section 1, as amended.

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	Dauner	Haukoos	Krueger	Murphy	Rest	Tunheim
Anderson, I.	Davids	Hausman	Lasley	Neary	Rhodes	Van Dellen
Anderson, R.	Dawkins	Holsten	Leppik	Nelson	Rice	Vellenga
Asch	Dehler	Hugoson	Lieder	Ness	Rodosovich	Vickerman
Battaglia	Delmont	Huntley	Limmer	Olson, K.	Rukavina	Wagenius
Bauerly	Dempsey	Jacobs	Lindner	Olson, M.	Sarna	Waltman
Beard	Dorn	Jaros	Lourey	Onnen	Seagren	Weaver
Bergson	Erhardt	Jefferson	Luther	Opatz	Sekhon	Wejcman
Bertram	Evans	Jennings	Lynch	Orenstein	Simoneau	Welle
Bettermann	Farrell	Johnson, A.	Macklin	Orfield	Skoglund	Wenzel
Bishop	Frerichs	Johnson, R.	Mahon	Osthoff	Smith	Winter
Blatz	Garcia	Johnson, V.	Mariani	Ostrom	Solberg	Wolf
Brown, C.	Girard	Kahn	McCollum	Ozment	Sparby	Worke
Brown, K.	Goodno	Kalis	McGuire	Pauly	Stanis	Workman
Carlson	Greenfield	Kelso	Milbert	Pawlenty	Steensma	Spk. Long
Carruthers	Greiling	Kinkel	Molnau	Pelowski	Sviggum	
Clark	Gruenes	Klinzing	Morrison	Perlt	Swenson	
Commers	Gutknecht	Koppendrayner	Mosel	Pugh	Tomassoni	
Cooper	Hasskamp	Krinkie	Munger	Reding	Tompkins	

The bill was passed and its title agreed to.

H. F. No. 964, A bill for an act relating to public safety; authorizing commissioner of public safety to apply for federal natural disaster assistance funds; amending Minnesota Statutes 1992, section 12.221.

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 128 yeas and 1 nay as follows:

Those who voted in the affirmative were:

Abrams	Dauner	Haukoos	Lasley	Nelson	Rice	Van Dellen
Anderson, I.	Dauids	Hausman	Leppik	Ness	Rodosovich	Vellenga
Anderson, R.	Dawkins	Holsten	Limmer	Olson, K.	Rukavina	Vickerman
Asch	Dehler	Hugoson	Lindner	Olson, M.	Sarna	Wagerius
Battaglia	Delmont	Huntley	Lourey	Ornen	Seagren	Waltman
Bauerly	Dempsey	Jacobs	Luther	Opatz	Sekhon	Weaver
Beard	Dorn	Jaros	Lynch	Orenstein	Simoneau	Wejcmán
Bergson	Erhardt	Jefferson	Macklin	Orfield	Skoglund	Welle
Bertram	Evans	Jennings	Mahon	Osthoff	Smith	Wenzel
Bettermann	Farrell	Johnson, A.	Mariani	Ostrom	Solberg	Winter
Bishop	Frerichs	Johnson, R.	McCollum	Ozment	Sparby	Wolf
Blatz	Garcia	Johnson, V.	McGuire	Pauly	Stanis	Worke
Brown, C.	Girard	Kahn	Milbert	Pawlenty	Steensma	Workman
Brown, K.	Goodno	Kalis	Molnau	Pelowski	Sviggum	Spk. Long
Carlson	Greenfield	Kelso	Morrison	Perlt	Swenson	
Carruthers	Greiling	Kinkel	Mosel	Pugh	Tomassoni	
Clark	Gruenes	Klinzing	Munger	Reding	Tompkins	
Commers	Gutknecht	Koppendraye	Murphy	Rest	Trimble	
Cooper	Hasskamp	Krueger	Neary	Rhodes	Tunheim	

Those who voted in the negative were:

Krinkie

The bill was passed and its title agreed to.

H. F. No. 1182, A bill for an act relating to state lands; providing for the release of a state interest in certain property in the city of Minneapolis.

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 130 yeas and 0 nays as follows:

Those who voted in the affirmative were:

Abrams	Brown, C.	Dempsey	Gutknecht	Johnson, R.	Lieder	Molnau
Anderson, I.	Brown, K.	Dorn	Hasskamp	Johnson, V.	Limmer	Morrison
Anderson, R.	Carlson	Erhardt	Haukoos	Kahn	Lindner	Mosel
Asch	Carruthers	Evans	Hausman	Kalis	Lourey	Munger
Battaglia	Clark	Farrell	Holsten	Kelso	Luther	Murphy
Bauerly	Commers	Frerichs	Hugoson	Kinkel	Lynch	Neary
Beard	Cooper	Garcia	Huntley	Klinzing	Macklin	Nelson
Bergson	Dauner	Girard	Jacobs	Koppendraye	Mahon	Ness
Bertram	Dauids	Goodno	Jaros	Krinkie	Mariani	Olson, K.
Bettermann	Dawkins	Greenfield	Jefferson	Krueger	McCollum	Olson, M.
Bishop	Dehler	Greiling	Jennings	Lasley	McGuire	Ornen
Blatz	Delmont	Gruenes	Johnson, A.	Leppik	Milbert	Opatz

Orenstein	Pelowski	Rodosovich	Smith	Tomassoni	Wagenius	Wolf
Orfield	Perl	Rukavina	Solberg	Tompkins	Waltman	Worke
Osthoff	Pugh	Sarna	Sparby	Trimble	Weaver	Workman
Ostrom	Reding	Seagren	Stanius	Tunheim	Wejcmán	Spk. Long
Ozment	Rest	Sekhon	Steensma	Van Dellen	Welle	
Pauly	Rhodes	Simoneau	Sviggum	Vellenga	Wenzel	
Pawlenty	Rice	Skoglund	Swenson	Vickerman	Winter	

The bill was passed and its title agreed to.

H. F. No. 1228, A bill for an act relating to retirement; public employees retirement association and Minneapolis employees retirement fund; providing for the retention of pension coverage for certain transferred employees.

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 130 yeas and 0 nays as follows:

Those who voted in the affirmative were:

Abrams	Dauner	Haukoos	Krueger	Murphy	Rest	Trimble
Anderson, I.	Davids	Hausman	Lasley	Neary	Rhodes	Tunheim
Anderson, R.	Dawkins	Holsten	Leppik	Nelson	Rice	Van Dellen
Asch	Dehler	Hugoson	Lieder	Ness	Rodosovich	Vellenga
Battaglia	Delmont	Huntley	Limmer	Olson, K.	Rukavina	Vickerman
Bauerly	Dempsey	Jacobs	Lindner	Olson, M.	Sarna	Wagenius
Beard	Dorn	Jaros	Lourey	Onnen	Seagren	Waltman
Bergson	Erhardt	Jefferson	Luther	Opatz	Sekhon	Weaver
Bertram	Evans	Jennings	Lynch	Orenstein	Simoneau	Wejcmán
Bettermann	Farrell	Johnson, A.	Macklin	Orfield	Skoglund	Welle
Bishop	Frerichs	Johnson, R.	Mahon	Osthoff	Smith	Wenzel
Blatz	Garcia	Johnson, V.	Mariani	Ostrom	Solberg	Winter
Brown, C.	Girard	Kahn	McCollum	Ozment	Sparby	Wolf
Brown, K.	Goodno	Kalis	McGuire	Pauly	Stanius	Worke
Carlson	Greenfield	Kelso	Milbert	Pawlenty	Steensma	Workman
Carruthers	Greiling	Kinkel	Molnau	Pelowski	Sviggum	Spk. Long
Clark	Gruenes	Klinzing	Morrison	Perl	Swenson	
Commers	Gutknecht	Koppendrayner	Mosel	Pugh	Tomassoni	
Cooper	Hasskamp	Krinkie	Munger	Reding	Tompkins	

The bill was passed and its title agreed to.

H. F. No. 1408, A bill for an act relating to agriculture; redefining terms in the plant pest act; exempting certain nonprofit organizations from the requirement for a nursery stock dealer certificate; amending Minnesota Statutes 1992, section 18.46, subdivision 3, and by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapter 18.

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 130 yeas and 0 nays as follows:

Those who voted in the affirmative were:

Abrams	Asch	Beard	Bettermann	Brown, C.	Carruthers	Cooper
Anderson, I.	Battaglia	Bergson	Bishop	Brown, K.	Clark	Dauner
Anderson, R.	Bauerly	Bertram	Blatz	Carlson	Commers	Davids

Dawkins	Hasskamp	Kinkel	McCollum	Orfield	Seagren	Vellenga
Dehler	Haukoos	Klinzing	McGuire	Osthoff	Sekhon	Vickerman
Delmont	Hausman	Koppendrayer	Milbert	Ostrom	Simoneau	Wagenius
Dempsey	Holsten	Krinkie	Molnau	Ozment	Skoglund	Waltman
Dorn	Hugoson	Krueger	Morrison	Pauly	Smith	Weaver
Erhardt	Huntley	Lasley	Mosel	Pawlenty	Solberg	Wejcmán
Evans	Jacobs	Leppik	Munger	Pelowski	Sparby	Welle
Farrell	Jaros	Lieder	Murphy	Perlt	Stanius	Wenzel
Frerichs	Jefferson	Limmer	Neary	Pugh	Steensma	Winter
Garcia	Jennings	Lindner	Nelson	Reding	Sviggum	Wolf
Girard	Johnson, A.	Lourey	Ness	Rest	Swenson	Worke
Goodno	Johnson, R.	Luther	Olson, K.	Rhodes	Tomassoni	Workman
Greenfield	Johnson, V.	Lynch	Olson, M.	Rice	Tompkins	Spk. Long
Greiling	Kahn	Macklin	Onnen	Rodosovich	Trimble	
Gruenes	Kalis	Mahon	Opatz	Rukavina	Tunheim	
Gutknecht	Kelso	Mariani	Orenstein	Sarna	Van Dellen	

The bill was passed and its title agreed to.

H. F. No. 1474, A bill for an act relating to county records; providing for the use of certain fees; amending Minnesota Statutes 1992, section 357.18, by adding a subdivision.

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

The question was taken on the passage of the bill and the roll was called. There were 130 yeas and 0 nays as follows:

Those who voted in the affirmative were:

Abrams	Dauner	Haukoos	Krueger	Murphy	Rest	Trimble
Anderson, I.	Davids	Hausman	Lasley	Neary	Rhodes	Tunheim
Anderson, R.	Dawkins	Holsten	Leppik	Nelson	Rice	Van Dellen
Asch	Dehler	Hugoson	Lieder	Ness	Rodosovich	Vellenga
Battaglia	Delmont	Huntley	Limmer	Olson, K.	Rukavina	Vickerman
Bauerly	Dempsey	Jacobs	Lindner	Olson, M.	Sarna	Wagenius
Beard	Dorn	Jaros	Lourey	Onnen	Seagren	Waltman
Bergson	Erhardt	Jefferson	Luther	Opatz	Sekhon	Weaver
Bertram	Evans	Jennings	Lynch	Orenstein	Simoneau	Wejcmán
Bettermann	Farrell	Johnson, A.	Macklin	Orfield	Skoglund	Welle
Bishop	Frerichs	Johnson, R.	Mahon	Osthoff	Smith	Wenzel
Blatz	Garcia	Johnson, V.	Mariani	Ostrom	Solberg	Winter
Brown, C.	Girard	Kahn	McCollum	Ozment	Sparby	Wolf
Brown, K.	Goodno	Kalis	McGuire	Pauly	Stanius	Worke
Carlson	Greenfield	Kelso	Milbert	Pawlenty	Steensma	Workman
Carruthers	Greiling	Kinkel	Molnau	Pelowski	Sviggum	Spk. Long
Clark	Gruenes	Klinzing	Morrison	Perlt	Swenson	
Commers	Gutknecht	Koppendrayer	Mosel	Pugh	Tomassoni	
Cooper	Hasskamp	Krinkie	Munger	Reding	Tompkins	

The bill was passed and its title agreed to.

S. F. No. 186, A bill for an act relating to marriage dissolution; requiring more information on the notice to a public authority; amending Minnesota Statutes 1992, section 518.551, 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 130 yeas and 0 nays as follows:

Those who voted in the affirmative were:

Abrams	Dauner	Haukoos	Krueger	Murphy	Rest	Trimble
Anderson, I.	Davids	Hausman	Lasley	Neary	Rhodes	Tunheim
Anderson, R.	Dawkins	Holsten	Leppik	Nelson	Rice	Van Dellen
Asch	Dehler	Hugoson	Lieder	Ness	Rodosovich	Vellenga
Battaglia	Delmont	Huntley	Limmer	Olson, K.	Rukavina	Vickerman
Bauerly	Dempsey	Jacobs	Lindner	Olson, M.	Sarna	Wagenius
Beard	Dorn	Jaros	Lourey	Onnen	Seagren	Waltman
Bergson	Erhardt	Jefferson	Luther	Opatz	Sekhon	Weaver
Bertram	Evans	Jennings	Lynch	Orenstein	Simoneau	Wejcman
Bettermann	Farrell	Johnson, A.	Macklin	Orfield	Skoglund	Welle
Bishop	Frerichs	Johnson, R.	Mahon	Osthoff	Smith	Wenzel
Blatz	Garcia	Johnson, V.	Mariani	Ostrom	Solberg	Winter
Brown, C.	Girard	Kahn	McCollum	Ozment	Sparby	Wolf
Brown, K.	Goodno	Kalis	McGuire	Pauly	Stanisus	Worke
Carlson	Greenfield	Kelso	Milbert	Pawlenty	Steensma	Workman
Carruthers	Greiling	Kinkel	Molnau	Pelowski	Sviggum	Spk. Long
Clark	Gruenes	Klinzing	Morrison	Perlt	Swenson	
Commers	Gutknecht	Koppendrayner	Mosel	Pugh	Tomassoni	
Cooper	Hasskamp	Krinkie	Munger	Reding	Tompkins	

The bill was passed and its title agreed to.

S. F. No. 903, A bill for an act relating to public employees; authorizing a local police civil service commission to adopt rules allowing the striking of a name on the civil service eligible register after a one-year period; amending Minnesota Statutes 1992, section 419.06.

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 130 yeas and 0 nays as follows:

Those who voted in the affirmative were:

Abrams	Dauner	Haukoos	Krueger	Murphy	Rest	Trimble
Anderson, I.	Davids	Hausman	Lasley	Neary	Rhodes	Tunheim
Anderson, R.	Dawkins	Holsten	Leppik	Nelson	Rice	Van Dellen
Asch	Dehler	Hugoson	Lieder	Ness	Rodosovich	Vellenga
Battaglia	Delmont	Huntley	Limmer	Olson, K.	Rukavina	Vickerman
Bauerly	Dempsey	Jacobs	Lindner	Olson, M.	Sarna	Wagenius
Beard	Dorn	Jaros	Lourey	Onnen	Seagren	Waltman
Bergson	Erhardt	Jefferson	Luther	Opatz	Sekhon	Weaver
Bertram	Evans	Jennings	Lynch	Orenstein	Simoneau	Wejcman
Bettermann	Farrell	Johnson, A.	Macklin	Orfield	Skoglund	Welle
Bishop	Frerichs	Johnson, R.	Mahon	Osthoff	Smith	Wenzel
Blatz	Garcia	Johnson, V.	Mariani	Ostrom	Solberg	Winter
Brown, C.	Girard	Kahn	McCollum	Ozment	Sparby	Wolf
Brown, K.	Goodno	Kalis	McGuire	Pauly	Stanisus	Worke
Carlson	Greenfield	Kelso	Milbert	Pawlenty	Steensma	Workman
Carruthers	Greiling	Kinkel	Molnau	Pelowski	Sviggum	Spk. Long
Clark	Gruenes	Klinzing	Morrison	Perlt	Swenson	
Commers	Gutknecht	Koppendrayner	Mosel	Pugh	Tomassoni	
Cooper	Hasskamp	Krinkie	Munger	Reding	Tompkins	

The bill was passed and its title agreed to.

H. F. No. 281, A bill for an act relating to agriculture; board of animal health; regulating the imposition and collection of civil penalties; amending Minnesota Statutes 1992, section 35.95, subdivisions 1 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 1 nay as follows:

Those who voted in the affirmative were:

Abrams	Dauner	Haukoos	Krueger	Murphy	Rest	Tunheim
Anderson, I.	Davids	Hausman	Lasley	Neary	Rhodes	Van Dellen
Anderson, R.	Dawkins	Holsten	Leppik	Nelson	Rice	Vellenga
Asch	Dehler	Hugoson	Lieder	Ness	Rodosovich	Vickerman
Battaglia	Delmont	Huntley	Limmer	Olson, K.	Rukavina	Wagenius
Bauerly	Dempsey	Jacobs	Lindner	Olson, M.	Sarna	Waltman
Beard	Dorn	Jaros	Lourey	Onnen	Seagren	Weaver
Bergson	Erhardt	Jefferson	Luther	Opatz	Sekhon	Wejcmann
Bertram	Evans	Jennings	Lynch	Orenstein	Simoneau	Welle
Bettermann	Farrell	Johnson, A.	Macklin	Orfield	Skoglund	Wenzel
Bishop	Frerichs	Johnson, R.	Mahon	Osthoff	Smith	Winter
Blatz	Garcia	Johnson, V.	Mariani	Ostrom	Solberg	Wolf
Brown, C.	Girard	Kahn	McCollum	Ozment	Sparby	Worke
Brown, K.	Goodno	Kalis	McGuire	Pauly	Steensma	Workman
Carlson	Greenfield	Kelso	Milbert	Pawlenty	Sviggum	Spk. Long
Carruthers	Greiling	Kinkel	Molnau	Pelowski	Swenson	
Clark	Gruenes	Klinzing	Morrison	Perlt	Tomassoni	
Commers	Gutknecht	Koppendrayner	Mosel	Pugh	Tompkins	
Cooper	Hasskamp	Krinkie	Munger	Reding	Trimble	

Those who voted in the negative were:

Stanislaus

The bill was passed and its title agreed to.

S. F. No. 789, A bill for an act relating to the city of St. Paul; validating an approval of special laws.

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	Carlson	Evans	Holsten	Kinkel	Macklin	Ness
Anderson, I.	Carruthers	Farrell	Hugoson	Klinzing	Mahon	Olson, K.
Anderson, R.	Clark	Frerichs	Huntley	Koppendrayner	Mariani	Olson, M.
Asch	Commers	Garcia	Jacobs	Krinkie	McCollum	Onnen
Battaglia	Cooper	Girard	Jaros	Krueger	McGuire	Opatz
Bauerly	Dauner	Goodno	Jefferson	Lasley	Milbert	Orenstein
Beard	Davids	Greenfield	Jennings	Leppik	Molnau	Orfield
Bergson	Dawkins	Greiling	Johnson, A.	Lieder	Morrison	Osthoff
Bertram	Dehler	Gruenes	Johnson, R.	Limmer	Mosel	Ostrom
Bettermann	Delmont	Gutknecht	Johnson, V.	Lindner	Munger	Ozment
Bishop	Dempsey	Hasskamp	Kahn	Lourey	Murphy	Pauly
Blatz	Dorn	Haukoos	Kalis	Luther	Neary	Pawlenty
Brown, K.	Erhardt	Hausman	Kelso	Lynch	Nelson	Pelowski

Perlt	Rodosovich	Skoglund	Sviggum	Van Dellen	Wejcman	Workman
Pugh	Rukavina	Smith	Swenson	Vellenga	Welle	Spk. Long
Reding	Sarna	Solberg	Tomassoni	Vickerman	Wenzel	
Rest	Seagren	Sparby	Tompkins	Wagenius	Winter	
Rhodes	Sekhon	Stanius	Trimble	Waltman	Wolf	
Rice	Simoneau	Steensma	Tunheim	Weaver	Worke	

The bill was passed and its title agreed to.

REPORT FROM THE COMMITTEE ON RULES AND LEGISLATIVE ADMINISTRATION

Anderson, I., from the Committee on Rules and Legislative Administration, pursuant to rule 1.09, designated the following bills as Special Orders to be acted upon immediately following printed Special Orders for today, Monday, April 12, 1993:

H. F. Nos. 554, 824, 454, 592, 667, 806, 889, 477, 504, 622, 1523, 994, 1095, 1153, 157, 945, 1428, 104, 1404, 129 and 670.

SPECIAL ORDERS

H. F. No. 643 was reported to the House.

Luther moved to amend H. F. No. 643, the first engrossment, as follows:

Page 13, delete lines 6 to 13

Renumber the remaining sections in sequence

The motion prevailed and the amendment was adopted.

H. F. No. 643, A bill for an act relating to commerce; making technical changes in the department's enforcement powers; regulating cosmetology; prescribing powers and duties; setting fees; amending Minnesota Statutes 1992, sections 45.011, subdivision 1, and by adding a subdivision; 45.027, subdivisions 1, 2, 5, 6, and 8; 155A.03, subdivision 1; 155A.05; 155A.06; 155A.07, subdivisions 2, 4, 7, and 8; 155A.08, subdivisions 2 and 5; 155A.09, subdivisions 2, 5, 6, and 9; 155A.10; 155A.14; 155A.15; and 155A.16; proposing coding for new law in Minnesota Statutes, chapter 155A; repealing Minnesota Statutes 1992, sections 155A.11; 155A.12; 155A.13; and 155A.18; Minnesota Rules, parts 2642.0310, subparts 3, 4, and 5; 2642.0330, subparts 3 and 4; 2642.0800; 2642.0810; 2644.0310, subparts 2, 3, and 4; 2644.0800; and 2644.0810.

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 126 yeas and 0 nays as follows:

Those who voted in the affirmative were:

Abrams	Beard	Brown, C.	Cooper	Dempsey	Garcia	Hasskamp
Anderson, I.	Bergson	Brown, K.	Dauner	Dorn	Girard	Haukoos
Anderson, R.	Bertram	Carlson	Dauids	Erhardt	Goodno	Hausman
Asch	Bettermann	Carruthers	Dawkins	Evans	Greiling	Holsten
Battaglia	Bishop	Clark	Dehler	Farrell	Gruenes	Huntley
Bauerly	Blatz	Commers	Delmont	Frerichs	Gutknecht	Jacobs

Jaros	Krinkie	Mariani	Olson, E.	Perl	Smith	Vellenga
Jefferson	Krueger	McCollum	Olson, K.	Pugh	Solberg	Wagenius
Jennings	Lasley	McGuire	Olson, M.	Reding	Sparby	Waltman
Johnson, A.	Leppik	Milbert	Onnen	Rest	Starius	Weaver
Johnson, R.	Lieder	Molnau	Opatz	Rhodes	Steensma	Wejcman
Johnson, V.	Limmer	Morrison	Orenstein	Rice	Sviggum	Welle
Kahn	Lindner	Mosel	Orfield	Rodosovich	Swenson	Wenzel
Kalis	Lourey	Munger	Ostrom	Rukavina	Tomassoni	Winter
Kelso	Luther	Murphy	Ozment	Sarna	Tompkins	Wolf
Kinkel	Lynch	Neary	Pauly	Seagren	Trimble	Worke
Klinzing	Macklin	Nelson	Pawlenty	Sekhon	Tunheim	Workman
Koppendrayer	Mahon	Ness	Pelowski	Skoglund	Van Dellen	Spk. Long

The bill was passed, as amended, and its title agreed to.

H. F. No. 554 was reported to the House.

Krinkie moved to amend H. F. No. 554, the first engrossment, as follows:

Page 2, after line 31 insert:

"Sec. 7. [REPEALER.]

Minnesota Statutes 1992, section 326.991, is repealed."

Renumber the sections in sequence

Correct internal references

Amend the title accordingly

A roll call was requested and properly seconded.

POINT OF ORDER

Orenstein raised a point of order pursuant to rule 3.09 that the Krinkie amendment was not in order. The Speaker ruled the point of order not well taken and the amendment in order.

The question recurred on the Krinkie amendment and the roll was called. There were 45 yeas and 85 nays as follows:

Those who voted in the affirmative were:

Abrams	Frerichs	Hugoson	Molnau	Onnen	Sviggum	Wolf
Bettermann	Girard	Johnson, V.	Morrison	Pauly	Swenson	Worke
Commers	Goodno	Krinkie	Mosel	Pawlenty	Tompkins	Workman
Davids	Gruenes	Leppik	Nelson	Seagren	Van Dellen	
Dehler	Gutknecht	Limmer	Ness	Smith	Vickerman	
Dempsey	Haukoos	Lindner	Olson, K.	Stanius	Waltman	
Erhardt	Holsten	Lynch	Olson, M.	Steensma	Weaver	

Those who voted in the negative were:

Anderson, I.	Clark	Huntley	Krueger	Neary	Rhodes	Vellenga
Anderson, R.	Cooper	Jacobs	Lasley	Olson, E.	Rice	Wagenius
Asch	Dauner	Jaros	Lieder	Opatz	Rodosovich	Wejzman
Battaglia	Dawkins	Jefferson	Lourey	Orenstein	Rukavina	Welle
Bauerly	Delmont	Jennings	Luther	Orfield	Sarna	Wenzel
Beard	Dorn	Johnson, A.	Macklin	Osthoff	Sekhon	Winter
Bergson	Evans	Johnson, R.	Mahon	Ostrom	Simoneau	Spk. Long
Bertram	Farrell	Kahn	Mariani	Ozment	Skoglund	
Bishop	Garcia	Kalis	McCollum	Pelowski	Solberg	
Brown, C.	Greenfield	Kelso	McGuire	Perlt	Sparby	
Brown, K.	Greiling	Kinkel	Milbert	Pugh	Tomassoni	
Carlson	Hasskamp	Klinzing	Munger	Reding	Trimble	
Carruthers	Hausman	Koppendraye	Murphy	Rest	Tunheim	

The motion did not prevail and the amendment was not adopted.

Frerichs was excused for the remainder of today's session.

H. F. No. 554, A bill for an act relating to occupations and professions; authorizing actions against lapsed licenses; requiring roofers to be licensed by the state; providing for temporary licenses and fees; amending Minnesota Statutes 1992, sections 45.027, by adding a subdivision; and 326.83, subdivisions 4, 10, and by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapter 326.

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 80 yeas and 49 nays as follows:

Those who voted in the affirmative were:

Anderson, I.	Carruthers	Jacobs	Leppik	Murphy	Rice	Trimble
Anderson, R.	Clark	Jaros	Lieder	Neary	Rodosovich	Tunheim
Asch	Dawkins	Jefferson	Lourey	Opatz	Rukavina	Vellenga
Battaglia	Delmont	Johnson, A.	Luther	Orenstein	Sarna	Wagenius
Bauerly	Dorn	Johnson, R.	Lynch	Orfield	Sekhon	Weaver
Beard	Evans	Kahn	Mahon	Osthoff	Simoneau	Wejzman
Bergson	Farrell	Kelso	Mariani	Ozment	Skoglund	Welle
Bertram	Garcia	Kinkel	McCollum	Pelowski	Smith	Spk. Long
Bishop	Greenfield	Klinzing	McGuire	Perlt	Solberg	
Blatz	Greiling	Koppendraye	Milbert	Pugh	Sparby	
Brown, K.	Hausman	Krueger	Mosel	Rest	Tomassoni	
Carlson	Huntley	Lasley	Munger	Rhodes	Tompkins	

Those who voted in the negative were:

Abrams	Dehler	Hasskamp	Krinkie	Olson, E.	Reding	Vickerman
Bettermann	Dempsey	Haukoos	Limmer	Olson, K.	Seagren	Waltman
Brown, C.	Erhardt	Holsten	Lindner	Olson, M.	Stanisus	Wenzel
Commers	Girard	Hugoson	Molnau	Onnen	Steensma	Winter
Cooper	Goodno	Jennings	Morrison	Ostrom	Sviggun	Wolf
Dauner	Gruenes	Johnson, V.	Nelson	Pauly	Swenson	Worke
Dauids	Gutknecht	Kalis	Ness	Pawlenty	Van Dellen	Workman

The bill was passed and its title agreed to.

Anderson, I., moved that the remaining bills on Special Orders for today be continued. The motion prevailed.

GENERAL ORDERS

Anderson, I., moved that the bills on General Orders for today be continued. The motion prevailed.

MOTIONS AND RESOLUTIONS

Hausman moved that the name of Johnson, A., be added as an author on H. F. No. 971. The motion prevailed.

Trimble moved that the name of Sekhon be added as an author on H. F. No. 1190. The motion prevailed.

Orenstein moved that the names of Vellenga, Hausman and Trimble be added as authors on H. F. No. 1319. The motion prevailed.

Hausman moved that the name of Sekhon be added as an author on H. F. No. 1529. The motion prevailed.

Krueger moved that the name of Wenzel be added as an author on H. F. No. 1700. The motion prevailed.

Sekhon moved that H. F. No. 1277 be recalled from the Committee on Health and Human Services and be re-referred to the Committee on Judiciary. The motion prevailed.

Evans moved that H. F. No. 1373 be recalled from the Committee on Commerce and Economic Development and be re-referred to the Committee on Taxes. The motion prevailed.

Wenzel moved that H. F. No. 960 be returned to its author. The motion prevailed.

ADJOURNMENT

Anderson, I., moved that the House adjourn. The motion prevailed, and the Speaker declared the House stands adjourned until 2:30 p.m., Tuesday, April 13, 1993.

EDWARD A. BURDICK, Chief Clerk, House of Representatives

