

SIXTY-FIRST DAY

St. Paul, Minnesota, Monday, February 2, 1976

The Senate met at 11:45 a.m. and was called to order by the President.

CALL OF THE SENATE

Mr. Coleman imposed a call of the Senate. The following Senators answered to their names:

Ashbach	Dunn	Kirchner	Olson, A. G.	Stassen
Bang	Frederick	Kleinbaum	Olson, H. D.	Stokowski
Berg	Hansen, Baldy	Kowalczyk	Olson, J. L.	Stumpf
Blatz	Hansen, Mel	Larson	Patton	Tennessen
Brown	Hanson, R.	Lewis	Pillsbury	Ueland
Coleman	Humphrey	Moe	Schaaf	
Conzemius	Josefson	Nelson	Schmitz	
Davies	Keefe, S.	Olhoff	Solon	

The Sergeant-at-Arms was instructed to bring in the absent members.

Prayer was offered by the Chaplain, Rev. Dave S. Schneider.

The roll being called, the following Senators answered to their names:

Anderson	Davies	Kirchner	North	Schmitz
Ashbach	Doty	Kleinbaum	Olhoff	Sillers
Bang	Dunn	Knutson	Olson, A. G.	Solon
Berg	Frederick	Kowalczyk	Olson, H. D.	Spear
Bernhagen	Hansen, Baldy	Larson	Olson, J. L.	Stassen
Blatz	Hansen, Mel	Laufenburger	O'Neill	Stokowski
Brataas	Hanson, R.	Lewis	Patton	Stumpf
Brown	Hughes	McCutcheon	Perpich, G.	Tennessen
Chenoweth	Humphrey	Merriam	Pillsbury	Ueland
Chmielewski	Josefson	Milton	Purfeerst	Wegener
Coleman	Keefe, J.	Moe	Renneke	Willett
Conzemius	Keefe, S.	Nelson	Schaaf	

The President declared a quorum present.

The reading of the Journal was dispensed with and the Journal, as printed and corrected, was approved.

MEMBERS EXCUSED

Messrs. Arnold; Borden; Fitzsimons; Gearty; Jensen; Ogdahl; Perpich, A. J. and Schrom were excused from the Session of today.

EXECUTIVE AND OFFICIAL COMMUNICATIONS

January 28, 1976

The Honorable Alec Olson
President of the Senate
State of Minnesota

Dear Sir:

The following appointment is hereby respectfully submitted to the Senate for confirmation as required by law:

John B. McCarthy, 972 Cherokee Avenue, West St. Paul, Dakota County, has been appointed by me to the Advisory Council on Fluctuating Enrollments, effective January 26, 1976, for a term expiring June 30, 1977.

Sincerely,
Wendell R. Anderson, Governor

Referred to the Committee on Education.

January 28, 1976

The Honorable Alec Olson
President of the Senate
State of Minnesota

Dear Sir:

The following appointment is hereby respectfully submitted to the Senate for confirmation as required by law:

Robert Ferguson, 855 Cliff Road, Eagan, Dakota County, has been appointed by me to the State Zoological Board, effective January 27, 1976, for a term expiring January 1, 1981.

Sincerely,
Wendell R. Anderson, Governor

Referred to the Committee on Governmental Operations.

INTRODUCTION AND FIRST READING OF SENATE BILLS

The following bills were read the first time and referred to the committees indicated.

Messrs. Lewis, O'Neill and Hughes introduced—

S. F. No. 1870: A bill for an act relating to education; establishing a uniform definition of school age for all handicapped children; amending Minnesota Statutes, 1975 Supplement, Section 120.17, Subdivision 1.

Referred to the Committee on Education.

Messrs. Spear; Hansen, Mel; and Humphrey introduced—

S. F. No. 1871: A bill for an act relating to Hennepin County; establishing a housing court for Hennepin county; prescribing its powers and duties; providing for hearing and appeal of civil and criminal cases involving housing matters.

Referred to the Committee on Judiciary.

Messrs. Lewis, Nelson and Solon introduced—

S. F. No. 1872: A bill for an act relating to health; providing that persons eligible for medical assistance have free selection of a medical care vendor; amending Minnesota Statutes, 1975 Supplement, Sections 256D.03, Subdivision 3; and 261.21, Subdivision 2.

Referred to the Committee on Health, Welfare and Corrections.

Mr. Borden introduced—

S. F. No. 1873: A bill for an act relating to Crow Wing county; authorizing the county to levy and collect a tax for road and bridge purposes on a part of an unorganized township within the county.

Referred to the Committee on Local Government.

Messrs. Tennessen, Nelson and Humphrey introduced —

S. F. No. 1874: A bill for an act relating to mortgages; legalizing certain foreclosures sales heretofore made and the records of the mortgage foreclosure proceedings.

Referred to the Committee on Judiciary.

Messrs. Lewis, Ashbach and Borden introduced—

S. F. No. 1875: A bill for an act relating to health; restricting persons who may administer anesthesia; licensing registered nurses to administer anesthesia; providing for temporary permits and extended time for compliance; amending Minnesota Statutes 1974, Section 148.171; and Chapters 145, by adding a section; and 148 by adding a section.

Referred to the Committee on Health, Welfare and Corrections.

Mr. North introduced—

S. F. No. 1876: A bill for an act relating to the operation of state government; correcting the nomenclature of or restructuring several boards and committees; limiting the use of advisory groups; standardizing the terms, compensation and removal of members of committees; abolishing or transferring the functions of several state agencies including the public relief advisory committee, the Minnesota-South Dakota boundary waters commission, the motor vehicle reciprocity commission, the Big Island veterans camp board of directors, the Minnesota Insurance guaranty association board of directors, the publications advisory board, the Indian education committee, the advisory committee for mentally retarded and cerebral palsied community for residential facilities, and the state teletypewriter advisory committee; amending Minnesota Statutes 1974, Sections 3.30, by adding a subdivision; 17.52; 17.53, Subdivision 5; 17.54, Subdivisions 2, 4 and 5; 21A.02, Sub-

division 5; 21A.03; 21A.10; 29.14, Subdivision 4; 29.15, Subdivisions 1 and 4; 30.463, Subdivision 2; 30.465; 30.466; 32B.03, Subdivision 4; 32B.04, Subdivision 5, and by adding a subdivision; 60C.03, by adding a subdivision; 60C.05; 60C.06, Subdivision 3; 60C.07; 60C.09, Subdivision 2; 60C.10; 60C.11; 60C.12; 60C.14, Subdivision 2; 60C.15; 84.01, Subdivision 5; 114.12; 116E.02, Subdivision 1; 116E.03, Subdivision 7, and by adding a subdivision; 121.83; 136A.02, Subdivision 5; 141.24; 168.187, Subdivisions 7, 8, 9, 11, 12, 15, 18, 24 and 25; 178.02, Subdivision 2; 197.15; 197.16; 252.28, Subdivision 2, and by adding a subdivision; 256.01, Subdivision 6; 326.41; 326.49; 481.01; Chapters 15, 21A, 60C and 114, by adding sections; and Minnesota Statutes, 1975 Supplement, Sections 15.012; 15.059, Subdivision 4; 84B.11, Subdivision 1; 86A.10, Subdivision 1; 115.71, Subdivision 4; 115.74, Subdivision 1; 125.183, Subdivision 1; 148.231, Subdivision 2; 149.02; 151.03; 155.05; 198.055, Subdivision 1; 326.241, Subdivision 1; 326.33, Subdivision 1; Extra Session Laws 1971, Chapter 31, Article 13, Section 1, as amended; repealing Minnesota Statutes 1974, Sections 17.60; 17.601; 21A.04; 32B.04, Subdivision 2; 72B.09; 114.01 to 114.08; 126.023; 168.187, Subdivision 6; 178.02, Subdivision 3; 197.14; 252.29; 299C.47; 362.16; Minnesota Statutes, 1975 Supplement, Section 86A.10, Subdivisions 3, 4 and 5; and Laws 1975, Chapter 380, Section 8.

Referred to the Committee on Governmental Operations.

Mr. North introduced—

S. F. No. 1877: A bill for an act relating to the operation of state government; reorganizing or abolishing various state agencies; transferring powers or duties from the Indian affairs commission, the capitol area architectural and planning commission, the livestock sanitary board, the cable communications commission, the iron range resources and rehabilitation commission, the levy limitations review board and the crime victims reparation board to other agencies; amending Minnesota Statutes 1974, Section 15.50; 35.02; 216A.05, by adding a subdivision; 238.02, Subdivision 4; 271.01, by adding a subdivision; 271.06, Subdivision 1; 271.09, Subdivision 1; 298.22, Subdivision 1, and by adding subdivisions; 299B.06, Subdivision 1; 299B.07, Subdivision 5; 299B.08, Subdivision 1; Chapters 17, 275 and 363, by adding sections; and Minnesota Statutes, 1975 Supplement, Sections 275.50, Subdivision 5; 275.52, Subdivision 4; Laws 1975, Chapter 344, Section 3, Subdivision 1; repealing Minnesota Statutes 1974, Sections 3.922, as amended; 238.04, as amended; 246.017, Subdivision 2; 275.551; 275.552; 298.22, Subdivision 2.

Referred to the Committee on Governmental Operations.

Mr. Gearty introduced—

S. F. No. 1878: A bill for an act relating to taxation; imposing a sales tax upon the fee charged for use of a coin-operated motion picture machine; providing penalties.

Referred to the Committee on Taxes and Tax Laws.

Messrs. Frederick, Schrom and Josefson introduced—

S. F. No. 1879: A bill for an act relating to highways; eliminating the requirements for acoustical barriers along certain highways; repealing Minnesota Statutes, 1975 Supplement, Section 161.125.

Referred to the Committee on Transportation and General Legislation.

Mrs. Brataas and Messrs. Conzemius and Frederick introduced—

S. F. No. 1880: A bill for an act relating to health; providing that hospitals do not require additional licenses for certain day care facilities; amending Minnesota Statutes 1974, Section 245.79.

Referred to the Committee on Health, Welfare and Corrections.

Mr. Hanson, R. introduced—

S. F. No. 1881: A bill for an act relating to the city of Wadena; increasing payments for firemen's relief association service pensions.

Referred to the Committee on Governmental Operations.

Messrs. Hanson, R.; Olhoft and Keefe, J. introduced—

S. F. No. 1882: A bill for an act relating to the historical society; prohibiting unlicensed persons from engaging in field archaeology on private lands; amending Minnesota Statutes 1974, Sections 138.31, Subdivision 3; 138.32; 138.33; and 138.36, Subdivision 2.

Referred to the Committee on Natural Resources and Agriculture.

Messrs. Hanson, R.; Olhoft and Keefe, J. introduced—

S. F. No. 1883: A bill for an act relating to taxation; real estate tax payment escrow accounts; imposition of penalties for delinquent real estate taxes on mortgagees under certain circumstances; amending Minnesota Statutes 1974, Section 279.01.

Referred to the Committee on Taxes and Tax Laws.

Messrs. Knutson and Keefe, J. introduced—

S. F. No. 1884: A bill for an act relating to accident and health insurance; providing a conversion privilege for divorced spouses.

Referred to the Committee on Labor and Commerce.

Messrs. Knutson, Bang and Kleinbaum introduced—

S. F. No. 1885: A bill for an act relating to insurance; establishing a life underwriters' council and prescribing its duties; pro-

viding for the examination, licensing and disciplining of persons selling life insurance.

Referred to the Committee on Labor and Commerce.

Messrs. Davies, Blatz and Gearty introduced—

S. F. No. 1886: A bill for an act relating to courts; providing for the election of Hennepin county municipal judges at the uniform municipal election; amending Minnesota Statutes 1974, Section 488A.021, Subdivision 3.

Referred to the Committee on Transportation and General Legislation.

Messrs. Davies; Hansen, Mel; and Stokowski introduced—

S. F. No. 1887: A bill for an act relating to special school district No. 1 of the city of Minneapolis; providing for the election of certain members of the school board according to districts; amending Laws 1959, Chapter 462, Section 3, Subdivision 1, as amended.

Referred to the Committee on Transportation and General Legislation.

Messrs. Hughes, Brown and Purfeerst introduced—

S. F. No. 1888: A bill for an act relating to highway traffic regulations; speed limitations; providing that speed limits on streets and highways are maximum speed limits; amending Minnesota Statutes 1974, Section 169.14, Subdivisions 2, 4 and 5.

Referred to the Committee on Transportation and General Legislation.

Messrs. Humphrey, Dunn and Hughes introduced—

S. F. No. 1889: A bill for an act relating to higher education; changing eligibility standards for state scholarships and grants-in-aid; making first-time scholarships and grants-in-aid available to students beyond the first year; reordering priorities for the awarding of scholarships and grants-in-aid; amending Minnesota Statutes, 1975 Supplement, Section 136A.121, Subdivision 3.

Referred to the Committee on Education.

Messrs. Keefe, J.; Lewis and Kowalczyk introduced—

S. F. No. 1890: A bill for an act relating to special assessments for public improvements in cities and certain towns; removing the provision prohibiting the levying of special assessments against highway rights of way; amending Minnesota Statutes 1974, Section 435.19, Subdivision 1.

Referred to the Committee on Taxes and Tax Laws.

Messrs. Nelson, McCutcheon and Mrs. Brataas introduced—

S. F. No. 1891: A bill for an act relating to public employees; administrative expenses of salary deductions for annuity contracts; appropriating funds; repealing Minnesota Statutes, 1975 Supplement, Section 356.26.

Referred to the Committee on Governmental Operations.

Mr. Purfeerst introduced—

S. F. No. 1892: A bill for an act relating to metropolitan revenue distribution; providing that the commissioner of revenue shall perform administrative functions; changing settlement dates and the method of computing the taxable valuation of certain governmental units; amending Minnesota Statutes 1974, Sections 473F.02, Subdivisions 7, 11, and 12; 473F.08, Subdivisions 2, 7 and 8; 473F.12, Subdivisions 2 and 4; and 473F.13, Subdivisions 1 and 2; repealing Minnesota Statutes 1974, Sections 473F.02, Subdivision 6; 473F.03; 473F.07, Subdivision 2; and 473F.08, Subdivision 9.

Referred to the Committee on Taxes and Tax Laws.

Messrs. Jensen; Hansen, Baldy; and Ashbach introduced—

S. F. No. 1893: A bill for an act relating to occupational safety and health; providing that no penalty be assessed if a violation is corrected within ten days of receipt of notice of the violation; amending Minnesota Statutes, 1975 Supplement, Section 182.661, Subdivision 1.

Referred to the Committee on Labor and Commerce.

Messrs. Jensen; Hansen, Baldy; and Ashbach introduced—

S. F. No. 1894: A bill for an act relating to administrative procedure; providing for the place of hearings; amending Minnesota Statutes 1974, Section 15.0418.

Referred to the Committee on Judiciary.

Messrs. Moe; Hanson, R. and Olhoft introduced—

S. F. No. 1895: A bill for an act relating to agriculture; establishing a family farm security program to encourage loans for farm real estate; appropriating money.

Referred to the Committee on Natural Resources and Agriculture.

Messrs. Sillers and Moe introduced—

S. F. No. 1896: A bill for an act relating to interstate cooperation; directing a study and meetings on various subjects of

mutual concern to the states of Minnesota and North Dakota and the province of Manitoba.

Referred to the Committee on Governmental Operations.

Mr. Moe introduced—

S. F. No. 1897: A bill for an act relating to commerce; prohibiting certain listings of vacant improved real property; requiring personal identification of solicitors; providing a penalty; amending Minnesota Statutes 1974, Chapter 325, by adding a section.

Referred to the Committee on Labor and Commerce.

Messrs. Moe, Dunn and Willet introduced—

S. F. No. 1898: A bill for an act relating to pollution control; authorizing the hiring of county environmental officers; providing grants-in-aid; appropriating money.

Referred to the Committee on Natural Resources and Agriculture.

Messrs. Keefe, J.; Schaaf and Mrs. Brataas introduced—

S. F. No. 1899: A bill for an act relating to inheritance tax; creating a presumption that each spouse furnished one half the consideration for jointly held property; amending Minnesota Statutes 1974, Section 291.01, Subdivision 4.

Referred to the Committee on Taxes and Tax Laws.

Messrs. Berg; Olson, J. L. and Josefson introduced—

S. F. No. 1900: A bill for an act relating to elections; providing for the nomination and election of legislators without party designation; amending Minnesota Statutes 1974, Section 206.07, Subdivision 1; and Minnesota Statutes, 1975 Supplement, Sections 203A.21, Subdivision 1; 203A.31, Subdivision 1; 203A.23, Subdivisions 7 and 9; and 203A.32, Subdivisions 1 and 2.

Referred to the Committee on Transportation and General Legislation.

Messrs. Moe, Bernhagen and Olson, A. G. introduced—

S. F. No. 1901: A bill for an act relating to cooperative associations; providing for changes in the electing of directors; amending Minnesota Statutes 1974, Sections 308.09, Subdivision 1; and 308.11.

Referred to the Committee on Natural Resources and Agriculture.

Messrs. Berg, Renneke and Brown introduced—

S. F. No. 1902: A bill for an act relating to ethics in government; prohibiting solicitation of lobbyists; amending Minnesota Statutes, 1975 Supplement, Chapter 210A, by adding a section.

Referred to the Committee on Transportation and General Legislation.

Messrs. Berg, Renneke and Brown introduced—

S. F. No. 1903: A bill for an act relating to the legislature; legislative expense payments; amending Minnesota Statutes, 1975 Supplement, Section 3.102.

Referred to the Committee on Governmental Operations.

Messrs. Doty, Dunn and Humphrey introduced—

S. F. No. 1904: A bill for an act relating to public officers; requiring a published list of boards and committees; notifying the public of vacancies and qualifications of candidates; providing for public hearing before appointment; authorizing review of functions of existing boards and committees; establishing a study commission.

Referred to the Committee on Governmental Operations.

Messrs. Davies, O'Neill and Coleman introduced—

S. F. No. 1905: A bill for an act relating to evidence; limiting use of certain kinds of records of legislative proceedings.

Referred to the Committee on Judiciary.

MESSAGES FROM THE HOUSE

Mr. President:

I have the honor to announce the passage by the House of the following Senate File, herewith returned: S. F. No. 1507.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned January 29, 1976

Mr. President:

I have the honor to announce that the House has acceded to the request of the Senate for the appointment of a Conference Committee, consisting of three members of the House, on the amendments adopted by the House to the following Senate File:

S. F. No. 22: A bill for an act relating to education; the establishment of educational cooperative service units to provide educational services and programs on a regional basis; appropriating money therefor.

There has been appointed as such committee on the part of the House:

Stanton, Norton and Suss.

Senate File No. 22 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives
Returned January 29, 1976

Mr. President:

I have the honor to announce that the House has acceded to the request of the Senate for the appointment of a Conference Committee, consisting of three members of the House, on the amendments adopted by the House of the following Senate File:

S. F. No. 570: A bill for an act relating to taxation; increasing the income tax deduction for dependents' school expenses; amending Minnesota Statutes 1974, Section 290.09, Subdivision 22.

There has been appointed as such committee on the part of the House:

Osthoff; Kelly, W. and Johnson C.

Senate File No. 570 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives
Returned January 29, 1976

Mr. President:

I have the honor to announce that the House has acceded to the request of the Senate for the appointment of a Conference Committee, consisting of three members of the House, on the amendments adopted by the House to the following Senate File:

S. F. No. 919: A bill for an act relating to the environment; directing creation of an environmental permits coordination unit within the environmental quality council; authorizing an optional consolidated application and hearing procedure for certain permits; directing establishment of permit information centers; appropriating money.

There has been appointed as such committee on the part of the House:

Patton; Sieben, H. and McCauley.

Senate File No. 919 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives
Returned January 29, 1976

Mr. President:

I have the honor to announce that the House has acceded to

the request of the Senate for the appointment of a new Conference Committee of five members of the House, on the amendments adopted by the House to the following Senate File:

S. F. No. 1308: A bill for an act relating to natural resources; clarifying procedures for acquisition of wildlife lands; modifying the definition of beneficial public use; requiring a substantial beneficial public use to be served in order to classify waters as public; establishing an accelerated program of inventorying, classifying, and designating state waters; prescribing the powers and duties of the commissioner of natural resources and counties in connection therewith; prescribing interim rules and regulations; specifying certain restrictions on drainage; eliminating the duty of the commissioner of natural resources to promulgate certain criteria relating to drainage systems; clarifying the criteria which county boards or district courts must consider concerning drainage systems; appropriating money; amending Minnesota Statutes 1974, Sections 97.481; 105.37, Subdivision 6, and by adding subdivisions; 105.38; 105.42, Subdivision 1; 106.021, Subdivisions 2 and 6; 106.031, Subdivision 1; 106.081, Subdivisions 1, 3 and 4; 106.091, Subdivisions 1 and 2; 106.101, Subdivisions 4 and 5; 106.111, Subdivision 1; 106.121, Subdivisions 1 and 4; 106.131; 106.201, Subdivisions 1 and 2; and Chapter 105, by adding sections.

There has been appointed as such committee on the part of the House:

Sherwood, Eken, Searle, Savelkoul and Hanson.

Senate File No. 1308 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives
Returned January 29, 1976

Mr. President:

I have the honor to announce the passage by the House of the following Senate File, AS AMENDED by the House, in which amendments the concurrence of the Senate is respectfully requested:

S. F. No. 816: A bill for an act relating to towns; requiring towns to file financial reports with the state auditor; amending Minnesota Statutes 1974, Section 366.22.

Senate File No. 816 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives
Returned January 29, 1976

CONCURRENCE AND REPASSAGE

Mr. Willet moved that the Senate concur in the amendments by the House to S. F. No. 816 and that the bill be placed on its repassage as amended. The motion prevailed.

S. F. No. 816 was read the third time, as amended by the House, and placed on its repassage.

The question being taken on the repassage of the bill, as amended,

And the roll being called, there were yeas 57 and nays 0, as follows:

Those who voted in the affirmative were:

Ashbach	Doty	Knutson	Olson, A. G.	Solon
Bang	Dunn	Kowalczyk	Olson, H. D.	Spear
Berg	Frederick	Larson	Olson, J. L.	Stassen
Bernhagen	Hansen, Baldy	Laufenburger	O'Neill	Stokowski
Blatz	Hansen, Mel	Lewis	Patton	Stumpf
Brataas	Hanson, R.	McCutcheon	Perpich, G.	Tennessen
Brown	Hughes	Merriam	Pillsbury	Ueland
Chenoweth	Humphrey	Milton	Purfeerst	Wegener
Chmielewski	Josefson	Moe	Renneke	Willet
Coleman	Keefe, S.	Nelson	Schaaf	
Conzemius	Kirchner	North	Schmitz	
Davies	Kleinbaum	Olhoft	Sillers	

So the bill, as amended, passed and its title was agreed to.

MESSAGES FROM THE HOUSE—CONTINUED

Mr. President:

I have the honor to announce the passage by the House of the following Senate File, AS AMENDED by the House, in which amendments the concurrence of the Senate is respectfully requested:

S. F. No. 866: A bill for an act relating to liquor, abolishing the office of liquor control commissioner and transferring the powers and duties thereof to the commissioners of public safety and revenue; amending Minnesota Statutes 1974, Chapter 299A, by adding a section; Sections 299A.01, Subdivision 3; 340.44; 340.47, Subdivision 2; 340.485, Subdivision 1; and 340.492; repealing Minnesota Statutes 1974, Sections 299A.01, Subdivision 4; 340.08; 340.09; 340.485, Subdivision 4; and 340.491.

Senate File No. 866 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives
Returned January 29, 1976

CONCURRENCE AND REPASSAGE

Mr. North moved that the Senate concur in the amendments by the House to S. F. No. 866 and that the bill be placed on its repassage as amended. The motion prevailed.

S. F. No. 866 was read the third time, as amended by the House, and placed on its repassage.

The question being taken on the repassage of the bill, as amended,

And the roll being called, there were yeas 54 and nays 1, as follows:

Those who voted in the affirmative were:

Bang	Dunn	Knutson	Olhoff	Schmitz
Berg	Frederick	Kowalczyk	Olson, A. G.	Sillers
Bernhagen	Hansen, Baldy	Larson	Olson, H. D.	Solon
Blatz	Hansen, Mel	Laufenburger	Olson, J. L.	Spear
Brataas	Hanson, R.	Lewis	O'Neill	Stokowski
Brown	Hughes	McCutcheon	Patton	Stumpf
Chenoweth	Humphrey	Merriam	Perpich, G.	Tennessen
Chmielewski	Josefson	Milton	Pillsbury	Ueland
Conzemius	Keefe, S.	Moe	Purfeerst	Wegener
Davies	Kirchner	Nelson	Renneke	Willet
Doty	Kleinbaum	North	Schaaf	

Mr. Stassen voted in the negative.

So the bill, as amended, passed and its title was agreed to.

MESSAGES FROM THE HOUSE—CONTINUED

Mr. President:

I have the honor to announce the passage by the House of the following Senate File, AS AMENDED by the House, in which amendments the concurrence of the Senate is respectfully requested:

S. F. No. 906: A bill for an act relating to plats and surveys; filing and certification thereof; providing an increase in the filing fees charged by the register of deeds; amending Minnesota Statutes 1974, Section 505.08, Subdivision 2.

Senate File No. 906 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives
Returned January 29, 1976

CONCURRENCE AND REPASSAGE

Mr. Chmielewski moved that the Senate concur in the amendments by the House to S. F. No. 906 and that the bill be placed on its repassage as amended. The motion prevailed.

S. F. No. 906 was read the third time, as amended by the House, and placed on its repassage.

The question being taken on the repassage of the bill, as amended,

And the roll being called, there were yeas 57 and nays 0, as follows:

Those who voted in the affirmative were:

Ashbach	Blatz	Chmielewski	Doty	Hansen, Mel
Bang	Brataas	Coleman	Dunn	Hanson, R.
Berg	Brown	Conzemius	Frederick	Humphrey
Bernhagen	Chenoweth	Davies	Hansen, Baldy	Josefson

Keefe, J.	Lewis	Olson, A. G.	Renneke	Stumpf
Keefe, S.	McCutcheon	Olson, H. D.	Schaaf	Tennessee
Kirchner	Merriam	Olson, J. L.	Schmitz	Ueland
Kleinbaum	Milton	O'Neill	Sillers	Wegener
Knutson	Moe	Patton	Solon	Willet
Kowalczyk	Nelson	Perpich, G.	Spear	
Larson	North	Pillsbury	Stassen	
Laufenburger	Olhoff	Purfeerst	Stokowski	

So the bill, as amended, passed and its title was agreed to.

MESSAGES FROM THE HOUSE—CONTINUED

Mr. President:

I have the honor to announce that the House has adopted the recommendation and report of the Conference Committee on House File No. 1741, and repassed said bill in accordance with the report of the Committee, so adopted.

H. F. No. 1741: A bill for an act relating to the organization and operation of state government; appropriating money for the conservation and development of the state's natural resources; providing for maintenance of the Minnesota historical society; for the horticultural society; for maintenance of the Sibley house; for maintenance of various semi-state activities; for aids to local subdivisions of government; for maintenance of the uniform laws commission; for the Port Authority of Duluth; and for other purposes.

House File No. 1741 is herewith transmitted to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted January 29, 1976

CONFERENCE COMMITTEE REPORT ON H.F. NO. 1741

A bill for an act relating to the organization and operation of state government; appropriating money for the conservation and development of the state's natural resources; providing for maintenance of the Minnesota historical society; for the horticultural society; for maintenance of the Sibley house; for maintenance of various semi-state activities; for aids to local subdivisions of government; for maintenance of the uniform laws commission; for the Port Authority of Duluth; and for other purposes.

January 28, 1976

The Honorable Martin O. Sabo
Speaker of the House of Representatives

The Honorable Alec G. Olson
President of the Senate

We, the undersigned conferees for H.F. No. 1741 report that we have agreed upon the items in dispute and recommend as follows: The Senate recede from its amendments to H.F. No. 1741

and that the bill be amended by striking all matter after the enacting clause and in lieu thereof substituting the following:

"Section 1. APPROPRIATIONS. The sums hereinafter named, or so much thereof as may be necessary, are hereby appropriated out of the general fund in the state treasury, or any other fund herein designated for the purposes specified in the following sections of this act, to be available for the fiscal years ending June 30, 1975, June 30, 1976, and June 30, 1977.

APPROPRIATIONS

Available for the Year

Ending June 30,

	1976	1977
\$		\$

Sec. 2. GENERAL GOVERNMENT

Subdivision 1. Minnesota-Wisconsin Boundary Area Commission

41,200	46,000
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For 1975—\$6,000

Provided that the amount that may be expended shall not exceed the amount provided for the commission by the state of Wisconsin.

Subd. 2. Uniform Laws Commission

9,900	9,900
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Any unexpended balance remaining in the first year shall not cancel but shall be available for the second year of the biennium.

Subd. 3. Great Lakes Commission

27,500	27,500
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Sec. 3. DEVELOPMENT AND CONSERVATION OF NATURAL RESOURCES

Subdivision 1. Societies and Associations

(a) State Horticultural Society

I. For maintenance

22,500	22,500
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(b) For expenses of the Junior Livestock Show in Duluth

1,400	1,400
-------	-------

	1976	1977
	\$	\$
Said sum to be paid to the junior livestock association of Duluth and to be expended by said association for the payment of the expenses and transportation of boys and girls displaying exhibits and in attendance at the junior livestock show at Duluth and for prizes awarded to exhibitors at said show.		
(c) For aid to Minnesota Livestock Breeders Association	14,100	14,200
(d) For aid to Northern Sheep Growers Associations ...	1,125	1,125
(e) For aid to Southern Sheep Growers Associations at LeSueur, Minnesota	500	500
(f) For Red River Valley Livestock Associations ..	7,500	7,500
Provided that the amount appropriated by item (f) hereof shall be disbursed pursuant to provisions of Minnesota Statutes, Section 38.02.		
(g) For the Red River Valley Dairymen's Association, Inc., for the purpose of promoting better dairying	1,500	1,500

Items (a), (c), (d), (e), (f), and (g) shall be appropriated under provisions of Minnesota Statutes, Section 17.07.

Subd. 2. Aid to Agricultural Societies and Poultry Associations

(a) Aid to county and district agricultural societies	240,000	240,000
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Of the amount appropriated by item (a), \$4,500 each year is for livestock premiums to county fair associations for carrying on boys' and girls' club work.

Provided that the amount ap-

	1976	1977
	\$	\$

propriated by item (a) hereof shall be disbursed according to Minnesota Statutes, Section 38.02.

Provided that out of the amounts appropriated by item (a) hereof, \$1,000 each year shall be available to the Red Lake Band of Chippewa Indians to be expended as may be directed by the Indian council for the purpose of encouraging such activities and arts as will advance the economic and social interest of their people and particularly to promote a program of agricultural development that will utilize to the greatest possible extent the lands and forest owned by them. This appropriation may be used to help maintain an agricultural extension service; to promote 4-H club work, or for premiums for the competitive display of exhibits at any fair or exposition that may be arranged under the direction of the council.

(b) County Fair Bicentennial Exhibits and Projects...

100,000

Any unexpended balance remaining in the first year shall not cancel but shall be available for the second year of the biennium.

Provided that these funds shall be used to reimburse county fairs who received funds under Laws 1973, Chapter 592, Section 4, Subdivision 2(a).

The payment to each county fair from this appropriation shall not exceed 20 percent of its total premiums paid in 1974.

(c) For aid in payment of premiums at exhibitions of poultry for the poultry associa-

	1976	1977
	\$	\$
tions mentioned in Laws 1949, Chapter 718, Section 7, Subdi- vision 8	3,500	3,500

Provided that out of the amounts appropriated by item (c) hereof the amount of \$1,125 shall be allotted each fiscal year to aid the Minnesota state poultry association in the payment of premiums and other necessary expenses, exclusive of salaries or wages of any kind, at its annual exhibition.

Provided that the northern poultry association (being a consolidation of fourteen northwestern county associations) shall receive not to exceed \$150.

Provided that no one association or society will receive an amount greater than the annual premium paid to exhibitors by them and shall not in any case exceed the sum of \$150 to any one county.

Provided further that any society or association to be entitled to their distributive share of this appropriation shall file annually with the department of agriculture on or before the first day of April of each year, a sworn statement signed by the president or secretary of such association or society showing the amount of cash premiums paid during the year to exhibitors, and the amount to be distributed to such society or association from said fund shall be based and determined upon the amount of cash premiums paid out as hereinbefore provided. Provided further that except as herein provided where there is more than one association in a county, the

	1976	1977
amount allotted to such county, not exceeding \$150 aforesaid, shall be distributed to the societies in equal amounts.	\$	\$

Sec. 4. SOCIAL SECURITY

Subdivision 1. Minnesota Veterans Home

(a) Maintenance and repairs . .	651,946	678,503
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Of the amounts appropriated by item (a), including such additional federal funds and dedicated receipts as may be available for maintenance and repair not to exceed \$1,300,410 is for salaries for the year ending June 30, 1976, and \$1,301,710 is for salaries for the year ending June 30, 1977, but may be augmented by such specific sums as are appropriated for salary increases by the 1975 legislature.

Of the amounts appropriated by item (a), no additional classified employees shall be granted beyond the approved roster of 100 classified employees.

Federal aid, compensation, or reimbursement from the federal government or otherwise received by the Minnesota veterans home, and all receipts from maintenance charges are hereby reappropriated to be used for the purpose of supplementing the appropriation herein provided for, however, any income in excess of \$1,402,300 for fiscal year 1976, and \$1,462,300 for fiscal year 1977 shall reduce the general fund appropriation by a like amount.

No portion of the money appropriated for salaries shall be used to pay merit increases to employees in the unclassified service.

	1976	1977
\$		\$
No commissary privileges including food, laundry service, janitorial service, and household supplies shall be furnished to any employees paid from this appropriation.		
(b) Repairs and replacements	30,000	
Any unexpended balance remaining in the first year shall not cancel but shall be available for the second year of the biennium.		
Subd. 2. Miscellaneous Accounts		
(a) Disabled American Veterans		
1. For salaries, supplies and expense to be expended as provided by Laws 1941, Chapter 425	10,000	10,000
(b) Veterans of Foreign Wars		
1. For carrying out the provisions of Laws 1945, Chapter 455	10,500	10,500
Sec. 5. EDUCATION, LIBRARIES, MUSEUMS AND RECREATION		
Subdivision 1. Minnesota Historical Society		
(a) Grants and Aids	2,325,285	2,466,082
The above appropriation includes sufficient funds to pay salary increases authorized January 1, 1975.		
From the appropriation made to the Historical Society by this act, employees, with the exception of the director, shall be paid a salary comparable to the salaries paid to state employees in the classified state civil service. The appropriation includes funds to provide for a seven-day-a-week tour program in the capitol and his-		

	1976	1977
	\$	\$

torical buildings. The historical building shall remain open for public use on Saturdays and, if necessary, adjustments in the remainder of the weekday schedule may be effected by the Minnesota historical society. Notwithstanding any other laws to the contrary, the society may purchase fire, wind, hail and vandalism insurance from this appropriation. The amount of funds necessary to meet expenses shall be paid to the society upon certification by the director of the Minnesota historical society of this amount to the commissioner of finance.

Any unexpended balance remaining at the end of the first year shall be returned to the state treasury and credited to the general fund.

Notwithstanding any other law to the contrary the appropriations made in this act shall be subject to the charter of the Minnesota historical society of 1849 and as amended in 1856.

The Minnesota historical society shall report annually by November 15 of each year to the governor, the commissioners of finance and administration, and the appropriate finance committees of the house and senate the amount and purpose for which state funds under this subdivision were expended for each fiscal year of the biennium.

The grant-in-aid appropriation herein provided shall be expended in the manner and under the terms and conditions described by the governing body of the Minnesota historical society.

	1976	1977
	\$	\$
(b) Museum Program	200,000	
The appropriation herein provided shall be expended according to the provisions of Minnesota Statutes 138.035.		
(c) Historic Sites Improvement	150,000	
(d) Construction Archaeology	50,000	
(e) Contingent Account	30,000	
(f) Historic Sites Program	475,000	
(g) Harkin-Massopust Store	50,000	
(h) Grand Mound Interpretive Center	25,000	
These funds shall be available upon completion of construction of the Grand Mound interpretive center.		
Any unexpended balances in subdivision 1 (b), (c), (d), (e), (f), (g), and (h) remaining in the first year shall not cancel but shall be available for the second year of the biennium.		
(i) Minnesota History and Learning Center	25,000	25,000
(j) Regional History Centers	60,000	60,000
Subd. 2. For maintenance of the Sibley House, to be expended by the Sibley House Association	15,000	15,000
Notwithstanding any other law to the contrary, the amount of \$1,500 is provided each year out of the above appropriation for fire, wind, hail, and vandalism insurance.		
Subd. 3. Minnesota Academy of Science	16,200	16,200
Subd. 4. Minnesota State Arts Council	500,000	500,000

	1976	1977
	\$	\$

Provided that the state arts council shall create 13 local arts development task forces using state economic development region lines as district boundaries. The state arts council shall recognize one task force from each district. Each task force shall meet at least bimonthly and shall act as a clearing house with right of review and recommendation for proposals generated by groups and individuals within its region. This program shall be for local art development and not for professional touring or special projects.

The state arts council shall be responsible for the administration of the professional touring program. Grants made under the touring program shall be used only for payment of touring costs.

Provided that the state arts council shall develop a comprehensive statewide information and publicity system and that it shall include a progress report on its activities in its annual report to the legislature.

Provided that not less than 55 percent of program moneys shall be expended in regions outside the seven-county metropolitan area.

Provided that none of the state share of grants and subsidies shall be used for matching salary expenditures of any of the various arts councils.

Every publication, program or other graphic material prepared by the Minnesota state arts council or prepared for use by any other organization in connection with an activity

	1976	1977
	\$	\$

funded in whole or part by the council shall bear the legend:

"This activity is made possible in part by a grant provided by the Minnesota state legislature and the Congress of the United States."

None of the appropriation for the second year of the bien-nium shall be expended until the state arts council has first consulted with the committee on appropriations of the house and the committee on finance of the senate and received its recommendation thereon. Such recommendation shall be advisory only.

Subsidies may be allocated to the major arts organizations, provided that the Minnesota state arts council shall set guidelines and shall be responsible for the disbursement of the following funds. In no event will the subsidy exceed the projected deficit in the year in which it is given. If these guidelines and restrictions are established and met, there is available \$75,000 for fiscal year 1976 and \$125,000 for fiscal year 1977 from the appropriation provided in this subdivision.

Provided that state funding for grants and subsidies may not be expended unless matched by federal funds except for the \$200,000 subsidy appropriation.

Subd. 5. Minnesota Safety Council

47,500

47,500

The moneys appropriated by this act shall be from the trunk highway fund and shall be disbursed by the commissioner of finance on certifica-

	1976	1977
	\$	\$
tion of need therefor by the president of the Minnesota safety council. The commissioner of finance shall disburse upon such certification 25 percent of the annual appropriation on the first day of July, October, January, and April of each fiscal year.		
Sec. 6. MINNESOTA SOCIETY FOR THE PREVENTION OF CRUELTY TO ANIMALS..	15,000	15,000
Provided that a portion of these funds shall be expended for education of the public relative to the sterilization of domestic pets.		
Provided further that a report shall be submitted to the 1976 and 1977 legislature regarding expenditures for public information programs.		
Sec. 7. COUNTY ATTORNEYS COUNCIL	50,000	50,000
Sec. 8. PORT AUTHORITY OF DULUTH	80,000	80,000
These amounts are appropriated to the Port Authority of Duluth, organized under Minnesota Statutes, Sections 458.09 to 458.19, and shall be used for the promotion of seaway trade.		
The Port Authority of Duluth shall file a report of activities financed by this appropriation with the legislature on or before November 1, 1975, and November 1, 1976.		
Sec. 9. SOUTHERN MINNESOTA RIVERS BASIN COMMISSION	40,000	40,000
Sec. 10. UNEMPLOYMENT COMPENSATION		
For 1975—\$5,586.93.		
In reimbursement for unem-		

	1976	1977
	\$	\$

ployment compensation benefits paid for former employees of the Minnesota Veterans Home.

Sec. 11. WORKMENS COMPENSATION

For 1975—\$17,209.55

To be transferred by the commissioner of finance to the department of labor and industry compensation revolving fund, in payment of obligations incurred by the following agencies in the amounts as indicated:

Historical Society \$11,318.53

Minnesota Veterans
Home 5,891.02

Sec. 12. UNOBLIGATED BALANCES. The unobligated balances on hand as of June 30, 1975, June 30, 1976, and June 30, 1977, in the several appropriations and accounts of each of the departments or divisions for which an appropriation is made herein out of the general fund, are hereby cancelled into the general fund as of June 30, 1975, June 30, 1976, and June 30, 1977, and the unobligated balances on hand as of June 30, 1976, and June 30, 1977, appropriated out of any other fund shall be cancelled into the fund from which they are appropriated as of June 30, 1976, and June 30, 1977. The provisions of this section shall not apply where otherwise indicated in this act or to aid, contributions, or reimbursements received from the federal government by the state, and all such federal aid, contributions, or reimbursements are hereby reappropriated for the purpose of supplementing the appropriations herein provided.

Sec. 13. Any moneys made available to any state department or agency by this act by appropriation, transfer, or otherwise for the payment of salaries is a source of revenue to such department or agency under the provisions of Minnesota Statutes, Sections 355.50 and 352.04, Subdivision 5.

Sec. 14. This act is effective the day following final enactment."

We request adoption of this report and repassage of the bill in accordance therewith:

House Conferees: (Signed) A. J. (Tony) Eckstein, James Swanson, Wendell Erickson, Phyllis Kahn and John Arlandson

Senate Conferees: (Signed) Clarence M. Purfeerst, Gerald L. Willet, Gene Merriam, William Kirchner and Harmon Ogdahl

Mr. Purfeerst moved that the foregoing recommendations and Conference Committee Report on H. F. No. 1741 be now adopted, and that the bill be repassed as amended by the Conference Committee. The motion prevailed. So the recommendations and Conference Committee Report were adopted.

H. F. No. 1741: A bill for an act relating to the organization and operation of state government; appropriating money for the conservation and development of the state's natural resources; providing for maintenance of the Minnesota historical society; for the horticultural society; for maintenance of the Sibley house; for maintenance of various semi-state activities; for aids to local subdivisions of government; for maintenance of the uniform laws commission; for the Port Authority of Duluth; and for other purposes.

Was read the third time, as amended by the Conference Committee, and placed on its repassage.

The question being taken on the repassage of the bill, as amended by the Conference Committee,

And the roll being called, there were yeas 59 and nays 0, as follows:

Those who voted in the affirmative were:

Anderson	Davies	Kirchner	North	Schmitz
Aashbach	Doty	Kleinbaum	Olhoft	Sillers
Bang	Dunn	Knutson	Olson, A. G.	Solon
Berg	Frederick	Kowalczyk	Olson, H. D.	Spear
Bernhagen	Hansen, Baldy	Larson	Olson, J. L.	Stassen
Blatz	Hansen, Mel	Laufenburger	O'Neill	Stokowski
Brataas	Hanson, R.	Lewis	Patton	Stumpf
Brown	Hughes	McCutcheon	Perpich, G.	Tennessee
Chenoweth	Humphrey	Merriam	Pillsbury	Ueland
Chmielewski	Josefson	Milton	Purfeerst	Wegener
Coleman	Keefe, J.	Moe	Renneke	Willet
Conzemius	Keefe, S.	Nelson	Schaaf	

So the bill, as amended by the Conference Committee, was repassed and its title was agreed to.

MESSAGES FROM THE HOUSE—CONTINUED

Mr. President:

I have the honor to announce the passage by the House of the following House Files, herewith transmitted:

H. F. Nos. 166, 277, 955, 1355, 1376, 875, 1075, 1226 and 1302.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted January 29, 1976

FIRST READING OF HOUSE BILLS

The following bills were read the first time and referred to the committees indicated.

H. F. No. 166: A bill for an act relating to Ramsey County; authorizing the county to acquire the Brightwood Hills golf course in the city of New Brighton; authorizing the issuance of bonds to finance the purchase.

Referred to the Committee on Metropolitan and Urban Affairs.

H. F. No. 277: A bill for an act relating to commerce, requiring the display of sale price and other identifying information on certain used motor vehicles offered for sale after a certain date; prescribing a penalty; amending Minnesota Statutes 1974, Chapter 325, by adding a section.

Referred to the Committee on Labor and Commerce.

H. F. No. 955: A bill for an act relating to mobile homes; providing certain procedures for repossession of mobile homes; amending Minnesota Statutes 1974, Section 336.9-104.

Referred to the Committee on Rules and Administration.

H. F. No. 1355: A bill for an act relating to highway traffic regulations; littering; providing penalties; amending Minnesota Statutes 1974, Section 169.42, Subdivisions 1 and 5.

Referred to the Committee on Natural Resources and Agriculture.

H. F. No. 1376: A bill for an act relating to insurance; examination fees; abstract or summary of the annual statement; amending Minnesota Statutes 1974, Sections 60A.03, Subdivision 5; 60A.13, Subdivision 3; and 60A.14, Subdivision 1.

Referred to the Committee on Rules and Administration.

H. F. No. 875: A bill for an act relating to labor relations; redefining professional strikebreaker; amending Minnesota Statutes 1974, Section 179.01, Subdivision 16.

Referred to the Committee on Labor and Commerce.

H. F. No. 1075: A bill for an act relating to public health; reducing to 17 the age at which a person is eligible to be a blood donor; amending Minnesota Statutes 1974, Section 145.41.

Referred to the Committee on Judiciary.

H. F. No. 1226: A bill for an act relating to drivers' licenses; classifications; providing that a class C license is valid for the operation of special mobile equipment used primarily for the construction or maintenance of streets and highways; amending Minnesota Statutes 1974, Section 171.02, Subdivision 2.

Referred to the Committee on Rules and Administration.

H. F. No. 1302: A bill for an act relating to insurance; providing for higher limits of liability coverage and uninsured motorist coverage; amending Minnesota Statutes 1974, Sections 65B.06; and 65B.49, Subdivision 6.

Referred to the Committee on Rules and Administration.

REPORTS OF COMMITTEES

Mr. Coleman moved that the Committee Reports at the Desk be now adopted. The motion prevailed.

Mr. Gearty from the Committee on Governmental Operations, to which was referred

S. F. No. 998: A bill for an act relating to the state building code; extending its application to all municipalities and new buildings; authorizing municipalities to adopt and enforce building maintenance codes; clarifying state agency rulemaking regarding building code subject matter; clarifying appeals to the commissioner; limiting surcharge computation to valuation; amending Minnesota Statutes 1974, Sections 16.84; 16.851; 16.86, Subdivision 4; 16.863; 16.866, Subdivision 1.

Reports the same back with the recommendation that the bill be amended as follows:

Strike everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 1974, Section 16.84, is amended to read:

16.84 [DEFINITIONS, STATE BUILDING CODE.] Subdivision 1. For the purposes of ~~Laws 1971, Chapter 561 sections 16.83 to 16.867~~, the terms defined in this section have the meanings given them.

Subd. 2. "Commissioner" means the commissioner of administration.

Subd. 3. "Municipality" means any city, or county ; ~~town acting through its town board or other instrumentality of state government otherwise authorized by law to enact a building code which, as of May 27, 1971, has such a building code or which subsequently enacts a building code .~~

Subd. 4. "Code" means the state building code or any amendment thereof promulgated by the commissioner in accordance with the terms of ~~Laws 1971, Chapter 561 sections 16.83 to 16.867~~.

Subd. 5. "Committee" means the state building code standards committee established pursuant to ~~Laws 1971, Chapter 561 sections 16.83 to 16.867~~.

Subd. 6. "Building maintenance code" means a body of rules adopted by a municipality governing the mandatory rehabilitation or reconstruction of existing buildings for purposes of energy conservation and the protection of life, safety and health.

Subd. 7. "Agricultural building" means a structure on a farm designed, constructed and used to house farm implements or agricultural produce or products. An agricultural building shall not include a structure used for human habitation or which is entered on a regular basis by persons other than the owner, lessee and sublessee of the building and members of their immediate families, their employees, and persons engaged in the pickup or delivery of agricultural produce or products.

Sec. 2. Minnesota Statutes 1974, Section 16.851, is amended to read:

16.851 [STATE BUILDING CODE; MODIFICATIONS; APPLICATION.] *Subdivision 1. Effective July 1, 1972, the state building code shall apply state-wide and supersede and take the place of the building code of any municipality. Specifically the code shall apply to any municipality which as of the effective date of this act has a building code and shall further apply to any*

municipality which chooses to adopt a building code thereafter. Said building code shall not apply to farm dwellings and buildings, except with respect to other state inspections required or other rule-making authorized by Minnesota Statutes 1971, Section 104.05 as of the effective date of this act. The state building code shall not apply to agricultural buildings except with respect to state inspections required or rulemaking authorized by sections 104.05 and 326.244. Effective July 1, 1976, or as soon thereafter as possible, but in no event later than July 1, 1977, all municipalities shall adopt and enforce the state building code with respect to new construction within their respective jurisdictions. If a city has adopted or is enforcing the state building code on the effective date of this act, it shall be charged with enforcement of the code in the city unless the city enters into an agreement with a county or another city pursuant to section 471.59 to provide enforcement. In all other instances the county shall be charged with enforcement unless the county enters into an agreement with a city or another county pursuant to section 471.59 to provide enforcement. Municipalities are authorized to adopt and enforce individual building maintenance codes so long as the codes do not exceed the requirements of the state building code.

Subd. 2. If the commissioner determines that a municipality is not properly administering and enforcing the state building code as provided in section 16.867, the commissioner may cause administration and enforcement in the involved municipality to be undertaken by the state building inspector. The commissioner shall notify the affected municipality in writing immediately upon making the determination, and the municipality may challenge the determination as a contested case before the commissioner pursuant to the administrative procedure act. The commissioner shall quarterly bill each affected municipality for the administration and enforcement services rendered. Any costs to the state arising from the state administration and enforcement shall be borne by the subject municipality. The commissioner of administration shall annually certify to the commissioner of revenue any unpaid costs incurred by the state building inspector because of the failure of a municipality to administer and enforce the code. The commissioner of revenue is authorized to annually deduct any certified unpaid costs that are at least one year delinquent from state aid funds given to the municipality.

Sec. 3. Minnesota Statutes 1974, Section 16.86, Subdivision 4, is amended to read:

Subd. 4. The commissioner, notwithstanding any law to the contrary, shall hold all state hearings and make all determinations regarding any subject matter dealt with in the code including those in which another department or agency proposes to adopt or amend its rules and regulations which are incorporated by reference into the code or whenever the commissioner proposes to incorporate such regulations into the state building code. In no event shall a state agency or department subsequently authorized to adopt rules and regulations involving state building code subject matter proceed to adopt the rules and regulations without prior consultation with the commissioner.

Sec. 4. Minnesota Statutes 1974, Section 16.863, is amended to read:

16.863 [APPEALS.] Any person aggrieved by the final decision of any municipality as to the application of the code may, ~~within 30 days of said decision, appeal that decision to the commissioner. Appellant shall submit a fee of \$20, payable to the commissioner, with his request for appeal. The appeal shall be heard by the commissioner as a contested case pursuant to the administrative procedures act only if submitted:~~

(a) *In writing;*

(b) *Not later than 30 calendar days after written notification to appellant of the municipality's final decision;*

(c) *With a copy of the involved municipality's written notification to appellant of its final decision;*

(d) *With a fee of \$20, payable to the commissioner.*

If any of the above requirements are not met or if the commissioner determines that the appeal is based on matters beyond his jurisdiction, he shall not consider the appeal and shall remit the appeal fee to the appellant. The final decision of the involved municipality shall be subject to review de novo by the commissioner or his designee pursuant to this section ; and the commissioner shall submit his written findings to the involved parties. Any person party aggrieved by any ruling the decision of the commissioner may appeal to the district court in the county in which the dispute arose pursuant to section 15.0424.

Sec. 5. Minnesota Statutes 1974, Section 16.866, Subdivision 1, is amended to read:

16.866 [SURCHARGE.] Subdivision 1. [COMPUTATION.] For the purpose of defraying the costs of administering the provisions of ~~Laws 1971, Chapter 521 sections 16.83 to 16.867~~ there is hereby imposed a surcharge on all permits issued by municipalities in connection with the construction of , or addition or alteration to, buildings and equipment or appurtenances ; ~~on and after July 1, 1971,~~ as follows:

(a) ~~Where the fee for the permit issued is fixed in amount the surcharge shall be equivalent to 1/2 mill (.0005) of such fee or 50 cents, whichever amount is greater. For all other permits, the surcharge shall be equivalent to 1/2 mill (.0005) of the valuation of the structure, addition or alteration for which the permit is required or 50 cents, whichever is greater. Provided however, that where the valuation of the structure, addition, or alteration is equal to or greater than \$1,000,000 but less than \$10,000,000, the surcharge shall be \$1,000, where said valuation is equal to or greater than \$10,000,000 but less than \$20,000,000 the surcharge shall be \$1,500 and where said valuation is equal to or greater than \$20,000,000 the surcharge shall be \$2,000.~~

Sec. 6. [TEMPORARY PROVISION.] *No later than January 1, 1977, the commissioner of administration shall submit to the legislature a report containing his findings and recommendations on the method by which municipalities can best implement and*

finance enforcement of the state building code. In preparing the report the commissioner shall consult with representatives of municipalities and persons involved in the building industry. The report of the commissioner shall also recommend a method for financing operations of the building code division. If the commissioner determines that statutory amendments are necessary, he shall submit amendments in bill form to the legislature as part of the report required by this section.

Sec. 7. [EFFECTIVE DATE.] *This act shall take effect on the day following final enactment; provided that section 2, subdivision 2, shall be effective July 1, 1977."*

Amend the title by striking it in its entirety and inserting:

"A bill for an act relating to the state building code; extending its application to all municipalities and new buildings; authorizing municipalities to adopt and enforce building maintenance codes; clarifying state agency rulemaking regarding building code subject matter; clarifying appeals to the commissioner; limiting surcharge computation to valuation; amending Minnesota Statutes 1974, Sections 16.84; 16.851; 16.86, Subdivision 4; 16.863; 16.866, Subdivision 1."

And when so amended the bill do pass. Amendments adopted. Report adopted.

Mr. Hansen, Baldy from the Committee on Labor and Commerce, to which was referred

H. F. No. 447: A bill for an act relating to real estate brokers and salespersons; authorizing establishment of special licenses applicable solely to the rental or management of real estate; amending Minnesota Statutes 1974, Sections 82.20, Subdivision 1; and 82.22, Subdivision 6.

Reports the same back with the recommendation that the bill be amended as follows:

Page 1, line 22, strike "1974" and insert ", 1975 Supplement"

Pages 1 to 2, strike all of subdivision 6, and insert:

"Subd. 6. [INSTRUCTION; NEW LICENSES.] (a) Every salesperson, licensed after July 1, 1973 and before July 1, 1976 shall, within two years of the date his license was first granted be required to successfully complete a course of study in the real estate field consisting of not less than 60 hours of instruction, approved by the commissioner. Upon appropriate showing of hardship by the licensee, or for persons licensed pursuant to section 82.20, subdivision 1, clause (b), the commissioner may waive or modify the requirements of this subdivision. Every salesperson licensed after July 1, 1976 shall, within three years of the date his license was first issued, be required to successfully complete a course of study in the real estate field consisting of not less than 90 hours of instruction, approved by the commissioner;

(b) The commissioner may approve courses of study in the real estate field offered in educational institutions of higher learning

in this state or courses of study in the real estate field developed by and offered under the auspices of the national association of realtors, or private real estate schools licensed by the state department of education. The commissioner may by rule prescribe the curriculum and qualification of those employed as instructors."

Amend the title as follows:

Line 6, strike "Sections" and insert "Section"

Line 6, after "and" insert "Minnesota Statutes, 1975 Supplement, Section"

And when so amended the bill do pass. Amendments adopted. Report adopted.

Mr. Hansen, Baldy from the Committee on Labor and Commerce, to which was referred

S. F. No. 1805: A bill for an act relating to motor vehicle carriers; reinstating the rights of certain permit carriers upon filing proof of insurance or other security; amending Minnesota Statutes, 1975 Supplement, Section 221.141, Subdivision 2.

Reports the same back with the recommendation that the bill do pass. Report adopted.

Mr. Olson, A. G. from the Committee on Local Government, to which was referred

S. F. No. 1736: A bill for an act relating to counties; authorizing the establishment of subordinate service districts in order to provide and finance governmental services.

Reports the same back with the recommendation that the bill be amended as follows:

Page 1, line 10, after "can" insert "more"

Page 1, line 12, after "[DEFINITION.]" insert "For the purposes of this act"

Page 1, line 13, before "means" insert ", "service district" or "district" "

Page 1, line 13, strike "district within" and insert "area of"

Page 1, line 22, after "undertake" insert "including any service or function which the county is requested to undertake pursuant to section 471.59, subdivision 8"

Page 2, line 3, after "resolution." insert "If the service to be provided in the district is presently provided on a county-wide basis, the resolution establishing the district shall be based on a finding that there are unique and special circumstances requiring an intensification or expansion of the service within the proposed district."

Page 2, line 3, strike "such a" and insert "the"

Page 2, line 7, strike "service or"

Page 2, line 8, strike "taxing" and insert "service"

Page 2, line 15, strike "to provide any service or services which"

Page 2, line 16, strike "the county is otherwise authorized by law to provide"

Page 3, line 3, before "service" strike "county"

Page 3, line 8, strike "service or"

Page 3, line 11, strike "service or"

Page 3, line 13, strike "such" and insert "a"

Page 3, line 13, strike "as may be"

Page 3, line 14, strike "Upon receipt of" and insert "If within 30 days after publication of the resolution,"

Page 3, line 16, strike "prior" and insert "is filed with the county auditor requesting a referendum on establishment of the district"

Page 3, strike line 17

Page 3, line 18, strike "section 6"

Page 3, line 23, strike "such" and insert "the"

Page 3, line 29, strike "service or"

Page 4, line 5, after "DISTRICT" insert "; ADDITIONAL SERVICES"

Page 4, line 5, before "The" insert "Subdivision 1."

Page 4, after line 13, insert

"Subd. 2. The county board, on its own motion or pursuant to petition, may provide additional services within an existing district pursuant to the procedures specified in sections 4 to 7."

Page 4, line 15, strike "county"

Page 4, line 16, strike "such" and insert "the"

Page 4, line 20, strike "subordinate taxing"

Page 4, line 20, strike "by levy of"

Page 4, line 21, after "charge" insert "imposed"

Page 4, line 21, strike "such service" and insert "the services"

Page 4, line 22, after "thereof" insert "; provided that if a referendum was held on the establishment of the district, the method of financing shall be as stated in the question submitted pursuant to section 7"

Page 4, line 22, after the period insert "All revenues derived from taxes levied or service charges imposed within a district shall be disbursed only for the benefit of the district."

Page 4, line 23, strike "WITHDRAWAL" and insert "TERMINATION"

Page 4, line 23, before "Upon" insert "Subdivision 1."

Page 4, line 26, strike "withdrawal" and insert "termination"

Page 4, line 26, strike "from the provisions of" and insert "and filed with the county auditor"

Page 4, line 27, strike "this act"

Page 4, line 29, strike "not less than 30 nor more than 90 days after"

Page 4, line 30, strike "receipt of such a petition"

Page 4, line 31, after "district." insert "The election shall be held not less than 30 nor more than 90 days after receipt of the petition or adoption of the resolution and"

Page 5, line 3, strike "withdrawn" and insert "terminated"

Page 5, line 3, strike "service or"

Page 5, line 4, strike "as"

Page 5, line 4, strike "such" and insert "the"

Page 5, line 7, strike "withdrawal and discontinuance of such services" and insert "termination of the district"

Page 5, line 8, strike "withdrawn" and insert "terminated"

Page 5, after line 11, insert

"Subd. 2. Termination of a district shall not relieve any property within the district from any tax liability for the payment of obligations issued to finance services within the district."

Page 5, line 13, strike "Any special act for a single county or" and insert "This act does not affect any subordinate service district established pursuant to any special act for a single county or group of counties, but no such district shall be expanded or terminated except in accordance with the provisions of this act, and no new subordinate service district shall be established or created in any county except in accordance with the provisions of this act."

Page 5, strike lines 14 through 18

And when so amended the bill do pass. Amendments adopted. Report adopted.

Mr. Hansen, Baldy from the Committee on Labor and Commerce, to which was referred

S. F. No. 687: A bill for an act relating to credit unions; allowing credit union members to vote by mail for officers and amendments; expanding the field of credit union membership; allowing credit unions certain powers with respect to dividends; amending Minnesota Statutes 1974, Sections 52.02; 52.05; 52.07 and 52.18.

Reports the same back with the recommendation that the bill be amended as follows:

Pages 2 and 3, strike section 2.

Page 4, line 8, strike "officers" and insert "directors, credit committee and supervisory members"

Page 4, line 25, after "accounts" insert "according to character, amount and duration"

Page 4, line 26, after "rates." insert "A dividend shall be uniform within a classification."

Page 4, line 28, strike "\$50" and reinstate the stricken "\$10"

Renumber sections in sequence

Amend title as follows:

Line 4, strike "expanding the field of credit union"

Line 5, strike "membership;"

Line 7, strike "52.05;"

And when so amended the bill do pass. Amendments adopted. Report adopted.

Mr. Hansen, Baldy from the Committee on Labor and Commerce, to which was referred

S. F. No. 1636: A bill for an act relating to insurance; clarifying the definition of insurance premium finance agreement; excluding certain agreements entered into by licensed insurance agents; amending Minnesota Statutes 1974, Sections 59A.02, Subdivision 2; and 59A.03, Subdivision 1.

Reports the same back with the recommendation that the bill be amended as follows:

Pages 1 and 2, strike section 1

Page 2, line 14, after "union" insert "or resident insurance agent who, within 15 days after entering into an insurance premium finance agreement, transfers such agreement to a licensee or to any of the organizations exempt under this subdivision"

Page 2, lines 14 and 15, reinstate the stricken language

Page 2, line 15, strike "enter into, acquire or hold" and insert "acquiring or holding"

Renumber the sections in sequence

Amend the title as follows:

Line 2, strike "clarifying the definition"

Strike lines 3 and 4

Line 5, strike "insurance agents;" and insert "clarifying license requirements for persons who enter into, acquire or hold insurance premium finance agreements;"

Line 6, strike "Sections 59A.02, Subdivision 2; and" and insert "Section"

And when so amended the bill do pass. Amendments adopted. Report adopted.

Mr. Gearty from the Committee on Governmental Operations, to which was re-referred

H. F. No. 525: A bill for an act relating to state government; creating a department of transportation; prescribing its duties and responsibilities; transferring the functions of some state departments; appropriating money; amending Minnesota Statutes 1974, Sections 43.09, Subdivision 2a; and 360.017, Subdivision 1; repealing Minnesota Statutes 1974, Sections 4.20; 161.03; and 360.014.

Reports the same back with the recommendation that the bill be amended as follows:

Strike everything after the enacting clause and insert:

"Section 1. [174.01] [DEPARTMENT OF TRANSPORTATION; POLICY.] *In order to provide a balanced transportation system, which system includes aeronautics, highways, motor carriers, ports, public transit, railroads and pipelines, a department of transportation is created. The department shall be the principal agency of the state for development, implementation, administration, consolidation, and coordination of state transportation policies, plans and programs.*

Sec. 2. [174.02] [COMMISSIONER OF TRANSPORTATION; POWERS; DUTIES.] *Subdivision 1. [APPOINTMENT.] The department shall be supervised and controlled by the commissioner of transportation, who shall be appointed by the governor with the advice and consent of the senate, for a four year term which shall coincide with the term of the governor and until his successor is appointed and qualified. He shall be appointed on the basis of his executive and administrative abilities, which shall include at least five years in one or more transportation related fields. The governor may remove the commissioner at his pleasure.*

Subd. 2. [UNCLASSIFIED POSITIONS.] The commissioner may establish four positions in the unclassified service at the deputy and assistant commissioner, assistant to commissioner or personal secretary levels. No more than two of these positions shall be at the deputy commissioner level.

Subd. 3. [DEPARTMENTAL ORGANIZATION.] The commissioner shall organize the department in a manner recognizing the administrative and staffing needs of all modes of transportation within his jurisdiction, and shall employ personnel as he deems necessary to discharge the functions of the department.

Subd. 4. [APPEARANCES IN PUBLIC TRANSPORTATION MATTERS.] The commissioner may appear as a party on behalf of the public in any proceeding or matter before the interstate commerce commission, the civil aeronautics board or any other agency or instrumentality of government which regulates public services or rates relating to transportation or other matters related to the powers and responsibilities of the commissioner as prescribed by law. The commissioner shall appear as a party on behalf of the public in proceedings before the public service commission as provided in Minnesota Statutes, Chapters 218, 219, 221, and 222.

Subd. 5. [COOPERATION.] To facilitate the development of a unified and coordinated intrastate and interstate transportation system:

(a) The commissioner shall maintain close liaison, coordination and cooperation with the private sectors of transportation, the upper great lakes seaway development commission corporation, and any multi-state organization involved in transportation issues affecting the state;

(b) The commissioner shall participate in the planning, regulation and development of the port authorities of the state; and

(c) The commissioner or his designee shall be a nonvoting, ex officio member of the metropolitan airports commission, as organized and established under Minnesota Statutes, Sections 473.601 to 473.679.

Sec. 3. [174.03] [DEPARTMENT OF TRANSPORTATION; DUTIES OF COMMISSIONER.] Subdivision 1. [STATEWIDE TRANSPORTATION PLAN; PRIORITIES; SCHEDULE OF EXPENDITURES.] *In order to best meet the present and future transportation needs of the public, to insure a strong state economy, to make most efficient use of public and private funds, and to promote the more efficient use of energy and other resources for transportation purposes, the commissioner shall:*

(a) Develop, adopt, revise and monitor a statewide transportation plan. The plan shall incorporate all modes of transportation and provide for the interconnection and coordination of different modes of transportation. The commissioner shall evaluate alternative transportation programs and facilities proposed for inclusion in the plan in terms of economic costs and benefits, safety aspects, impact on present and planned land uses, environmental effects, energy efficiency, national transportation policies and priorities and availability of federal and other financial assistance. The commissioner shall consult with the metropolitan council, regional development commissions, port authorities, and other political subdivisions of the state in developing and revising the plan;

(b) Based upon the statewide transportation plan, develop statewide transportation priorities and schedule authorized public capital improvements and other authorized public transportation expenditures pursuant to the priorities;

(c) Three months after the commissioner notifies the commissioner of administration that the department is ready to commence operations, hold public hearings as may be appropriate solely for the purpose of receiving suggestions for future transportation alternatives and priorities for the state; these hearings shall be completed no later than six months from the date of the commissioner's notification;

(d) Complete the plan, priorities and schedule of expenditures required by this subdivision no later than July 1, 1978. Upon completion, the commissioner shall promulgate the plan, priorities, and schedule as a rule in accordance with Minnesota Statutes, Chapter 15.

Subd. 2. [IMPLEMENTATION OF PLAN.] *After the adoption of the statewide transportation plan, the commissioner and the public service commission shall take no action inconsistent with that plan.*

Subd. 3. [OTHER DUTIES.] *The commissioner shall:*

(a) Construct and maintain transportation facilities as authorized by law;

(b) Cooperate with, and may provide technical and financial assistance to, the metropolitan council and regional development commissions in the regional transportation planning process, in accordance with mutually acceptable terms and conditions;

(c) Cooperate with and may provide planning and technical assistance upon the request of any political subdivision or other governmental agency in accordance with mutually accepted terms and conditions, except as otherwise restricted by law; and

(d) Study and evaluate in a manner consistent with development of the statewide transportation plan, alternative methods for insuring adequate and economical transportation of agricultural commodities, supplies and other goods to and from rural areas of the state. The commissioner shall include in the study consideration of rail line improvement programs including those adopted or proposed in other states. Based on the study and evaluation, the commissioner shall recommend an appropriate state assistance program to the governor and the legislature no later than July 1, 1978. Upon completion of each stage of any rail improvement study conducted by a state department or agency, the information developed by the study shall be made available to the commissioner.

Subd. 4. [REGIONAL TRANSPORTATION PLANNING.] *The metropolitan council, pursuant to Minnesota Statutes, Section 473.146, and the regional development commissions shall develop regional long-range transportation policy plans in cooperation with the commissioner and local units of government. Upon promulgation of the statewide transportation plan, and periodically as necessary thereafter, each regional policy plan shall be reviewed and amended, if necessary, by the appropriate regional agency to insure that the regional policy plan is not in conflict with the statewide transportation plan.*

Subd. 5. [ECONOMIC, SOCIAL, AND ENVIRONMENTAL EFFECTS.] *The commissioner shall consider the social, economic and environmental effects resulting from existing and proposed transportation facilities and shall make continuing efforts to mitigate any adverse effects. The commissioner shall utilize a systematic, interdisciplinary approach which shall insure the integrated use of the natural, social and physical sciences and the environmental design arts in plans and decisions which may affect the environment.*

Subd. 6. [ENERGY CONSERVATION.] *The commissioner, in cooperation with the Minnesota energy agency, shall evaluate all modes of transportation in terms of their levels of energy consumption. The director of the energy agency shall provide the commis-*

sioner with projections of the future availability of energy resources for transportation. The commissioner shall use the results of this evaluation and the projections to evaluate alternative programs and facilities to be included in the statewide plan and to otherwise promote the more efficient use of energy resources for transportation purposes.

Subd. 7. [SALARIES AND EXPENSES.] Salaries and expenses of the department relating to highway purposes shall be paid from moneys available in the trunk highway fund. The funds provided in Minnesota Statutes, Sections 360.011 to 360.076 and 360.301 to 360.91 shall be expended by the commissioner of transportation in accordance with the purposes prescribed by those sections. Funds appropriated pursuant to the authority conferred by any constitutional article shall be expended in conformity with the purposes and uses authorized thereby.

Sec. 4. [174.04] [FINANCIAL ASSISTANCE; APPLICATIONS; DISBURSEMENT.] Subdivision 1. [REVIEW OF APPLICATION.] A regional development commission, metropolitan council, public transit commission, airport commission, port authority or other political subdivision of the state submitting an application for financial assistance for transportation planning, capital expenditures or operations to any state or federal agency, shall first submit the application to the commissioner of transportation. The commissioner shall review the application to determine whether it contains matters that substantially affect the statewide transportation plan and priorities. If the application does not contain such matters, the commissioner shall forward the application to the appropriate agency. If the application contains such matters, the commissioner shall review, comment on and approve or disapprove the application as being consistent with the plan and priorities. The commissioner shall then forward the application together with his comments and approval or disapproval to the appropriate agency.

Subd. 2. [DESIGNATED AGENT.] A regional development commission, metropolitan council, public transit commission, airport commission, port authority, or any other political subdivision of the state may designate the commissioner as its agent to receive and disburse funds by entering into an agreement with the commissioner prescribing the terms and conditions of the receipt and expenditure of the funds in accordance with federal and state laws and regulations.

Subd. 3. [EXCEPTIONS.] The provisions of this section shall not be construed as altering or amending in any way the provisions of Minnesota Statutes, Section 161.36, 360.016 or 360.0161.

Sec. 5. [174.05] [POLLUTION CONTROL AGENCY; REGULATIONS AND STANDARDS.] Subdivision 1. [NOTIFICATION BY POLLUTION CONTROL AGENCY.] The director of the pollution control agency shall inform the commissioner of transportation of all activities of the pollution control agency which relate to the adoption, revision or repeal of any standard or rule concerning transportation established pursuant to Minnesota Statutes, Section 116.07. Upon notification the commissioner shall

participate in those activities. Participation may include, but is not limited to, access to all pertinent information collected or compiled by the pollution control agency and transmittal to the director of the pollution control agency of information and expert opinions concerning the ability of affected modes of transportation to accomplish the desired objectives and the impact that alternative methods of attaining those objectives would have on present or planned transportation systems in the state.

Subd. 2. [COMMISSIONER TO SUBMIT REVIEW OF PROPOSED RULES.] *Prior to public hearings on any rule concerning transportation proposed by the pollution control agency, the commissioner shall submit a written review of those rules, including an analysis of their impact upon the state's transportation system, and may propose alternative regulations or standards. This report shall be made part of the record of the hearing and shall be made available to any person prior to the hearing.*

Subd. 3. [REPORT BY POLLUTION CONTROL AGENCY.] *Upon the adoption, revision or repeal of a rule concerning transportation, the director of the pollution control agency shall publish a written report of the manner in which the adopted rule reflects consideration of the factors specified in Minnesota Statutes, Section 116.07, Subdivision 6, and the specific issues raised in the commissioner's report.*

Sec. 6. [TRANSFER OF POWERS.] Subdivision 1. [DEPARTMENT OF HIGHWAYS.] *All powers, duties and functions heretofore vested in or imposed on the commissioner of highways or the department of highways by Minnesota Statutes, Chapters 160, 161, 162, 163, 164, 165, 167, 169, 173, or sections 473.401 to 473.451 or any other law relating to the duties and powers of the commissioner of highways are transferred to, vested in, and imposed on the commissioner of transportation. The position of the commissioner of highways and the department of highways as heretofore constituted are abolished.*

Subd. 2. [DEPARTMENT OF AERONAUTICS.] *All powers, duties, and functions heretofore vested in or imposed on the commissioner of aeronautics or the department of aeronautics by Minnesota Statutes, Sections 360.011 to 360.076, 360.301 to 360.73, 360.81 to 360.91 or any other law relating to the duties and powers of the commissioner of aeronautics are transferred to, vested in, and imposed on the commissioner of transportation. The position of the commissioner of aeronautics and the department of aeronautics as heretofore constituted are abolished.*

Subd. 3. [DEPARTMENT OF PUBLIC SERVICE.] *All powers, duties and functions heretofore vested in or imposed on the department of public service, the public service commission or the director of the department of public service by Minnesota Statutes, Sections 216A.10 to 216A.13 are transferred to, vested in, and imposed on the commissioner of transportation.*

Subd. 4. [STATE PUBLIC TRANSIT FINANCIAL ASSISTANCE.] *All duties and responsibilities assigned to the state planning agency under Laws 1974, Chapter 534 or Laws 1975, Chapter*

203, Sections 9 to 11, are transferred to the commissioner of transportation.

Subd. 5. [TRANSFER APPROVAL OF COMMISSIONER OF ADMINISTRATION.] Any and all transfers of department of public service personnel, records and funds to the department of transportation, made pursuant to the provisions of this section, shall be subject to the approval of the commissioner of administration.

Subd. 6. [EFFECT OF TRANSFERS TO THE DEPARTMENT OF TRANSPORTATION.] (a) The department of transportation shall be deemed a continuation of the former department or agency as to those matters within the jurisdiction of the former department or agency which are assigned or transferred to the department by this act, with the same force and effect as though the functions, powers or duties of the agency or department had not been assigned or transferred, and shall not be held to constitute a new authority for the purpose of succession to all rights, powers, duties and obligations of the former department or agency, as constituted at the time of the assignment or transfer. All rules heretofore promulgated under authority of a power, duty or responsibility transferred by this act to the commissioner of transportation or to the department of transportation shall remain in full force and effect until modified or repealed.

(b) Any proceeding, court action, prosecution, or other business or matter which is pending on the effective date of this section and which was undertaken or commenced by a department or agency whose functions, powers or duties are transferred to the department of transportation by this act, may be conducted and completed by the department of transportation in the same manner, under the same terms and conditions, and with the same effect as though it were undertaken or commenced and conducted or completed by the former department or agency prior to the transfer.

(c) Except as otherwise provided in this act, the head of a department or agency whose functions, powers and duties are transferred to the department of transportation by this act shall transfer all contracts, books, maps, plans, papers, records, and property of every description within his jurisdiction or control to the commissioner of transportation. The commissioner shall receive from the public service department all documents, records and papers necessary to perform his duties.

(d) All unexpended funds appropriated to any department or agency for the purposes of any of its functions, powers, or duties which are transferred by this act to the department of transportation are hereby transferred to the department of transportation. When the functions, powers and duties that are affected by this act are the responsibility of the department of transportation and another department or agency, the commissioner of administration shall allocate any unexpended appropriation to the department or agency between the department of transportation and the other departments or agencies affected, as may be appropriate.

(e) Except as otherwise provided in this act, all persons employed in the classified service by a department or agency to perform any of the functions, powers or duties which are transferred by this act to the department of transportation, are transferred to the department. The positions of all persons who are employed in the unclassified service by a department or agency to perform any of the functions, powers or duties which are transferred by this act to the department, are abolished. Any person in the unclassified civil service whose position is abolished by this act and who is not appointed to an unclassified position authorized by this act may be otherwise continued in the unclassified service in the department of transportation, but for a period not to exceed 12 months from the date on which the department commences operation. Any unclassified position created for this purpose shall not be included in those authorized by section 2, subdivision 2, or section 8 of this act.

Subd. 7. [LEGISLATIVE INTENT; PROPOSALS FOR IMPLEMENTATION.] *It is the intent of the legislature that gas, oil, slur and other pipelines, long distance conveyor belt systems and other modes of transportation not now regulated by the state be constructed and operated in a manner that best serves the public good and complements other means of transportation. The commissioner of transportation shall submit to the governor and the legislature, no later than January 1, 1978, specific proposals, drafted in bill form if appropriate, to implement this policy within the areas of responsibility assigned to the department of transportation.*

Subd. 8. [RECOMMENDATIONS FOR STATUTORY REVISIONS.] *The commissioner shall submit, together with the proposals required by subdivision 7, specific recommendations of language to update all statutory sections which relate to the operation of his department and are in need of revision. The commissioner's report shall give special consideration to sections affecting rule-making and public hearings, to language or provisions rendered obsolete by passage of time, and to overall clarity and brevity of the statutes.*

Sec. 7. [REVISOR OF STATUTES; TERMINOLOGY CHANGES.] *In the next and subsequent editions of Minnesota Statutes, the revisor of statutes shall make the necessary changes in terminology to record the transfers of functions, powers and duties which are provided by this act from a department or agency to the department of transportation.*

Sec. 8. [174.10] [PROCEEDINGS BEFORE DEPARTMENT.] *Subdivision 1. The department or the public service commission, as appropriate, in any contested case shall give reasonable notice to representatives of associations or other interested groups or persons who have registered their names with the department for that purpose, to all parties and to cities and municipalities which the department or commission deems to be interested in the proceeding. The commissioner or commission may prescribe an annual fee to be credited to the general fund, which fee shall be a*

charge to all registered groups or persons. This charge is to cover the out of pocket costs involved in giving such notice.

Subd. 2. In all matters over which the commissioner has regulatory, or enforcement authority, he may issue subpoenas and compel the attendance of witnesses and the production of all necessary papers, books, records, documents, and other evidentiary material. Any person failing or refusing to appear to testify regarding any matter about which he may be lawfully questioned or to produce any papers, books, records, documents, or other evidentiary materials in the matter to be heard, after having been required by a subpoena of the commissioner to do so may, upon application by the commissioner to the district court in any district, be ordered to comply therewith. A hearing examiner in a rule-making or contested case proceeding may, on behalf of the commissioner, issue subpoenas, administer oaths to witnesses, and take their affirmations. Depositions may be taken within or without the state by the commissioner or his designee in the manner provided by law for the taking of depositions in civil actions. A subpoena or other process or paper may be served upon any person named therein, anywhere within the state by any officer authorized to serve subpoenas or other process or paper in civil actions, with the same fees and mileage and in the same manner as prescribed by law for service of process issued out of the district court of this state.

Subd. 3. In proceedings under chapters 218, 219, 221, and 222 which involve a hearing before the public service commission, the matter shall be investigated and prosecuted before the commission by the commissioner of transportation representing the interests of the people of this state. Unless otherwise specified by statute, all hearings shall be conducted as a rule-making proceeding or as a contested case, as appropriate, in accordance with chapter 15. Any person aggrieved by a final decision of the commissioner in a contested case may appeal in the manner provided by Minnesota Statutes, Section 15.0424. An appeal shall be governed by Minnesota Statutes, Chapter 15.

Subd. 4. If, in any proceeding before him relating to or involving the reasonableness of rates, fares, charges, or classifications, the commissioner of transportation decides that he does not have jurisdiction because the traffic covered by the rates, fares, charges, or classifications is interstate commerce, he shall issue an order dismissing the proceeding and stating the ground of the dismissal, which order may be appealed from in like manner as other appealable orders of the commissioner.

Sec. 9. Minnesota Statutes, 1975 Supplement, Section 43.09, Subdivision 2a, is amended to read:

Subd. 2a. [ADDITIONAL UNCLASSIFIED POSITIONS.] Notwithstanding any other law to the contrary, the personnel board, upon the request of the governor, is hereby authorized to establish permanent unclassified positions, or to unclassify previously classified positions, provided that:

(1) Positions so established involve only deputy or assistant heads of departments or agencies, or director level positions

which are not specifically established by law, and who are appointed by and report directly to a head of a department or agency who is required by law to be appointed by the governor, or by a gubernatorially appointed board; as well as one position for a personal secretary of any head of a department or agency listed in clause (4).

(2) Classified incumbents of such positions, if any, are not removed from that position for a period of one year except under applicable provisions of rules and laws governing classified state employees.

(3) If an employee in the classified civil service accepts a newly created unclassified position, he shall retain an inactive classified civil service status and, upon his request, the commissioner of personnel shall reappoint him to his previous classified position, or to a comparable position.

(4) Positions so established are limited in number to six in the departments of administration, corrections, finance, highways, transportation, natural resources, public safety, public welfare, and revenue; to five in the departments of commerce, education, health, labor and industry, and personnel; to four in the departments of agriculture, economic development, and employment services; to three in the departments department of aeronautics, public service, and the planning agency, and the pollution control agency; and to two in the departments of human rights and veterans affairs. Departments or agencies not enumerated in this clause shall not be authorized to establish additional unclassified positions under the provisions of this subdivision.

(5) Funds are available.

Sec. 10. Minnesota Statutes 1974, Section 216A.05, is amended to read:

216A.05 [FUNCTIONS AND POWERS OF COMMISSION.]
Subdivision 1. [LEGISLATIVE NATURE OF FUNCTIONS.]
The functions of the commission shall be legislative in nature. It may make such investigations and determinations, hold such hearings, prescribe such rules and regulations and issue such orders with respect to the control and conduct of the businesses coming within its jurisdiction as the legislature itself might make but only as it shall from time to time authorize.

Subd. 2. [POWERS.] The commission shall, to the extent prescribed by law:

(1) Investigate the management of all carriers and warehousemen; including express companies, sleeping car companies and telegraph companies, the manner in which their businesses are conducted and the adequacies of the services which they are affording to the public, and make all appropriate orders relating to the continuation, termination or modification of all services and facilities with a view to properly promoting the security and convenience of the public.

(2) Review and ascertain the reasonableness of tariffs of rates,

fares and charges, or any part or classification thereof, and prescribe the form and manner of filing, posting and publication thereof.

(3) Prescribe uniform systems of keeping and rendering accounts and the time within which such systems shall be adopted.

~~(4) Direct the repair and reconstruction or replacement of any inadequate or unsafe trackage or structure, motor carrier vehicle or facility.~~

~~(5)~~ (4) Order the issuance of franchises, permits or certificates of convenience and necessity.

Subd. 3. [FORMS.] The commission may:

~~(1) Make or amend any rules and regulations governing the procedure and conduct of its hearings not inconsistent with law.~~

~~(2)~~ (1) Subpoena, in the same manner a district court summons is served, at such time and place as it may designate, any books, papers or accounts kept by any regulated business within or without the state, or compel production of verified copies in lieu thereof.

~~(3)~~ (2) Prepare all forms or blanks for the purpose of obtaining information which it may deem necessary or useful in the proper exercise of its authority and duties in connection with regulated businesses, and prescribe the time and manner within which such blanks and forms shall be completed and filed with it.

~~(4)~~ (3) Inspect, at all reasonable times, and copy the books, records, memoranda, correspondence or other documents and records of any business under its jurisdiction.

~~(5)~~ (4) Examine, under oath, any officer, agent or employee thereof in relation to its business and affairs.

Subd. 4. [PERFORMANCE OF FUNCTIONS OF DEPARTMENT OF PUBLIC SERVICE.] The commission shall exercise each and every legislative function imposed in ~~present laws upon~~ *by law* on the department of public service.

Subd. 5. [HEARINGS UPON PETITIONS.] *With respect to those matters within its jurisdiction* the commission shall receive, hear and determine within six months all petitions filed with it in accordance with the procedures established by law and may investigate, hold hearings and make determinations upon its own motion to the same extent, and in every instance, in which it may do so upon petition.

Subd. 6. [OPERATION WITH REGARD TO FEDERAL LAW.] The commission is authorized:

(1) To cooperate with all federal agencies for the purpose of harmonizing state and federal regulations within the state to the extent and in the manner deemed advisable ; ~~and for such purpose may approve and establish freight rates which depart from the distance principle required by any state law .~~

(2) To conduct joint hearings with the interstate commerce commission or federal communications commission *any federal agency or commission* within or without the state and participate in any proceedings before such commissions *any federal agency or commission* when it considers such participation advisable and in the interest of the people of this state.

(3) To nominate members to any joint board as provided by federal acts.

Sec. 11. Minnesota Statutes 1974, Section 216A.06, is amended to read:

216A.06 [DIRECTOR.] Subdivision 1. [ESTABLISHMENT OF OFFICE, APPOINTMENT; TERM.] The office of director of the administrative division of the department of public service is hereby established. He shall be appointed by the governor with the advice and consent of the senate, for a four year term and the initial term to expire on the first Monday in January, 1971.

Subd. 2. [DISQUALIFICATIONS, REMOVAL.] The director shall be subject to the same disqualifications for office as commissioners, shall take and file a similar oath of office, and shall be in the unclassified service and shall be subject to removal by the governor for inefficiency, neglect of duty, malfeasance in office or any grounds provided herein as disqualifying him. His removal shall be upon not less than ten days' notice, based upon written charges, with an opportunity for a public hearing thereon *cause after notice and hearing*.

Sec. 12. Minnesota Statutes 1974, Section 216A.07, is amended to read:

216A.07 [DUTIES OF DIRECTOR.] The director shall be the executive and administrative head of the public service department. He shall have and possess all the rights and powers and perform all the duties relating to the administrative function of the department as set forth in section 216A.02, *subdivision 2 chapter 216A*.

Sec. 13. Minnesota Statutes 1974, Section 216A.08, is amended to read:

216A.08 [CONTINUATION OF RULES OF PUBLIC SERVICE DEPARTMENT.] All valid rules, regulations, orders and directives heretofore *enforced*, issued or promulgated by the *railroad and warehouse commission public service department under authority of chapters 218, 219, 221 or 222* shall remain and continue in force and effect until repealed, modified or superseded by duly authorized rules, regulations, orders or directives of the public service commission *or the commissioner of transportation*.

Sec. 14. Minnesota Statutes 1974, Section 218.011, is amended to read:

218.011 [DEFINITIONS.] Subdivision 1. For the purposes of *this chapter chapters 218, 219 and 222*, the following terms

shall defined in this section have the meanings given them in this section.

Subd. 2. "Common carrier" shall mean all railroad companies, except private railroads; express companies; sleeping-car companies; and all persons, natural or artificial, engaged in such transportation as aforesaid common carriers for hire.

Subd. 3. "Railroad" shall include all railways, bridges, car floats, lighters and ferries used by or operated in connection with any railroad; and also all the road in use by any common carrier operating a railroad, whether owned or operated under a contract, agreement or lease; and also switches, spurs, tracks, terminals and terminal facilities of every kind used or necessary in the transportation of the persons or property designated herein, including all freight depots, yards and grounds, used or necessary in the transportation or delivery of any such property.

Subd. 4. "Transportation" shall include locomotives, steam, diesel or electric powered engines, cars and other vehicles, vessels and all instrumentalities and facilities of shipment or carriage, irrespective of ownership or of any contract, express or implied, for the use thereof, and all services in connection with the receipt, delivery, elevation and transfer in transit, ventilation, refrigeration, or icing, storage and handling of property transported.

Subd. 5. "Department" means the department of transportation.

Subd. 6. "Commissioner" means the commissioner of the department of transportation.

Subd. 7. "Commission" means the public service commission.

Sec. 15. Minnesota Statutes 1974, Section 218.021, is amended to read:

218.021 [COMMON CARRIERS, UNLAWFUL ACTS.] Subdivision 1. It shall be unlawful for any common carrier:

(1) To charge, demand, collect or receive for any service a greater or a lesser sum than that fixed in its published schedules.

(2) To change or discontinue any published rate, charge or classification, minimum weight or rule relating to the same, or operation of any regularly scheduled intrastate passenger trains, without approval of the ~~department of public service~~ *public service commission*.

(3) To make or give any undue or unreasonable preference or advantage, or any undue or unreasonable prejudice or disadvantage, to any person, company, firm, corporation, transit point or locality or to any particular description of traffic.

(4) By any special rate, rebate, drawback or other device, directly or indirectly, to charge, demand, collect or receive a greater or less compensation for any service rendered in the transportation of any property within this state than the regular established schedule of rates and charges for like and contemporaneous service for any other person, or for the public

generally; or, directly or indirectly, to offer or give any shipper, in connection with or as an inducement or reward for receiving any property for transportation, any gift, gratuity or free pass or any rate less than that offered to the public.

(5) Except as expressly permitted, to charge a greater rate per ton or per ton mile for a single carload of freight of any kind or class than for a greater number of carloads of the same kind or class, to and from the same points of origin or destination.

(6) To charge or receive any greater compensation for the transportation of passengers or of like kind or class and a quantity of property for a shorter than for a longer distance over the same line, the shorter being included within the longer; but this shall not be so construed as to authorize any carrier to charge or receive as great compensation for a shorter as for a longer distance; or to charge or receive any greater compensation per ton per mile for the contemporaneous transportation of the same class of freight for a longer than for a shorter distance over the same line in the same general direction, or from the same original point of departure or to the same point of arrival; but this shall not be construed so as to authorize any carrier to charge as high a rate per ton per mile for a longer as for a shorter distance.

(7) To charge or receive for the transportation of freight of any description for any distance within this state a greater amount than is at the same time charged or received for a like quantity of freight of the same class over a greater distance of the same railway; or to charge or receive at any point upon its road a higher rate for receiving, handling or delivering freight of the same class or quantity than it shall at the same time charge or receive to any other point upon the same line; or to charge or receive for freight of any description over its railway a greater amount than at the same time is charged or received for the transportation of a like quantity of freight of the same class being transported over any portion of the same railway of equal distance; or to charge or receive from any person a greater amount than it shall at the same time charge or receive from any other person for the same class and like quantity of freight at the same point upon its railway; or to charge or receive from any person for the transportation of any freight upon its railway a greater amount than it shall at the same time charge or receive from any other person for the transportation of a like quantity of freight of the same class being transported from the same point over an equal distance of the same railway; or to charge or receive from any person for the use and transportation of any railway car upon its railroad for any distance, a greater amount than is at the same time charged or received from any other person for the use and transportation of any railway car of the same class or number for a like purpose being transported over a greater distance of the same railway; or to charge or receive from any person for the use and transportation of any railway car upon its railroad a greater amount in the aggregate than it shall at the same time charge or receive from any other person

for the use and transportation of any railway car of the same class for a like purpose being transported from the same original point of an equal distance of the same railway; provided, however, where two or more railroads serve a common point one having a shorter mileage than the other from a given point, the railroad having the longer mileage may be authorized by the ~~department~~ *commission* to meet the rate made by the shortest line.

(8) To charge or receive more for transporting a car of freight than is charged or received per car for several cars of a like class of freight over the same railway for the same distance; or to charge or receive more for transporting a ton of freight than is charged or received per ton for more than a ton but less than a carload of like class over the same railway for the same distance; or to charge or receive more for transporting one hundred pounds of freight than is charged or received per hundred pounds above one hundred pounds but less than a ton of like class over the same railway for the same distance.

Subd. 2. Nothing herein shall prohibit carriage, storage or handling of property free or at reduced rates for the United States, the state, or any governmental subdivision thereof, ministers of religion, sisters of charity, missionaries, students of educational institutions or inmates of charitable institutions, or for charitable purposes, or for exhibition at fairs or at exhibitions, or of stock for breeding purposes, or issuance of excursion or commutation passenger tickets at rates equal for all; nor prohibit issuance of free tickets, passes or transportation to any officers, bona fide agents, surgeons, physicians, attorneys or employees of any common carrier or dependent members of their families, or to duly elected representatives of any railroad or motor bus labor organizations, or to children under twelve (12) years of age, ministers of religion, secretaries of Young Men's Associations, persons exclusively engaged in charitable and eleemosynary work, indigent, destitute and homeless persons and such persons, when transported by charitable societies or hospitals or by any public charity and the necessary agents employed in such transportation, inmates of national homes or state homes for disabled soldiers, inmates of soldiers' and sailors' homes including those entering and returning from such homes and transportation of managers of such homes, post office inspectors, custom and immigration inspectors, witnesses of common carriers attending any legal investigation in which the company is interested, officials and linemen of telegraph and telephone companies, ex-employees retired from service on account of age or because of disability sustained while in the service of the common carrier and dependent members of their families, or the widows or dependent children of employees killed or dying while in the service of such company, necessary caretakers of livestock, poultry, vegetables and fruit, including transportation to and from the point of delivery, employees on sleeping and express cars, railway or motor bus mail service employees, newsboys on trains or motor buses, baggage agents, persons injured in wrecks and physicians and nurses attending them; nor prohibit the interchange of passes, express and other

franks for the officers, bona fide agents, surgeons, physicians, attorneys and employee and dependent members of their families of any person or company with the object of providing relief in cases of general epidemic, pestilence or calamitous visitation; nor prohibit the interchange of passenger and freight transportation and message service between railroad, motor bus and telegraph companies; nor prohibit furnishing free transportation to the members of the department, its secretary commissioner, members of the commission, hearings officers, counsel or employees and agents while engaged in the performance of their duties, provided no such free transportation shall be given to any person when a member of, employed by or in any way connected with any political committee or an incumbent of any office or position under the constitution and laws of this state, except as above provided and except that free passes may be given to employees while occupying office or position other than judicial under a municipality, county or public school district, or while acting under appointment as a notary public, and may further issue free passes to any member of the legislature who has been an employee of such company for a continuous period of five (5) years prior to his election, and, provided, that such member of the legislature does not collect mileage for such travel from the state.

Sec. 16. Minnesota Statutes 1974, Section 218.025, is amended to read:

218.025 [TRANSPORTATION RATES FOR SHIPPING ROAD BUILDING MATERIALS.] The department of public service is hereby authorized to commission may make schedules of intrastate rates for railroads for the transportation of sand, gravel, crushed rock, and other materials to be used in the construction or maintenance of public roads and streets by or under the direction of public authorities, which rates may be lower than those charged for transporting the same kind of freight for all other purposes.

Sec. 17. Minnesota Statutes 1974, Section 218.031, as amended by Laws 1975, Chapter 313, Section 1, is amended to read:

218.031 [COMMON CARRIERS, DUTIES.] Subdivision 1. Except as otherwise directed or authorized, it shall be the duty of every common carrier:

(1) To prescribe in the first instance, and to publish upon not less than ten days' public notice in such manner as may be required by the department commissioner and law, all schedules of fares, rates and charges and classifications thereof, together with the rules governing the same, and minimum weights for transportation of freight articles between points or stations in the state, and terminal and switching charges, provided there shall be but one classification applicable to any one commodity which shall be uniform on all railroads in this state and govern in all state commerce.

(2) To comply with every duly authorized rule, regulation or

directive of the *department commissioner or commission* except as the same may be stayed, pending appeal therefrom.

(3) To put into effect and observe all schedules of rates, fares and charges and classifications and any amendments or changes therein duly ordered by the *department commission*, except as the same may be stayed, pending appeal.

(4) To maintain as may be directed by the *public service commission commissioner* for public inspection at stations and depots all schedules showing all classifications, rates, fares and charges for transportation of freight and passengers currently in force applying from such station. Such schedules shall state the places between which persons and property will be carried and show the classification of freight, the distance tariff, a table of distances between stations, any terminal charges and any rules or regulations in any way affecting the aggregate of such rates, fares and charges.

(5) Upon request of an owner or consignor of freight to the initial company, whenever the initial line does not reach the place of destination, or the distance from the place of origin to destination may be shortened, to transfer such freight to a connecting line without change in cars if in carload lots, except such change be free of charge to the shipper and receiver; and to transfer with or without change in cars of less than carload lots at a reasonable joint through rate agreed upon by the connecting carriers or prescribed by the *department commission*, not greater than the maximum rates allowed by law, provided any unloading and reloading which is necessary shall be at cost and the charge for such transfer included in the joint rate.

(6) To provide the same switching, transfer and handling facilities for local as for interstate traffic.

(7) Upon written demand of the owner, to construct, maintain and operate side tracks and reasonable facilities connecting with any grain warehouse, dock, wharf, mill, coal yard, quarry, brick or lime kiln, sand or gravel pit, crushed rock or concrete plant or manufactory as may be required by the *department commission*, and on such terms as may be agreed upon, or, on failure of agreement, as may be prescribed by the *department commission*.

(8) To issue receipts or bills of lading covering all property received for transportation from any point in the state to any other point in the state, and to respond for any loss, damage or injury to such property caused by it or any carrier to whom such property may be delivered or over whose line it may pass, nor shall any contractual provision whatever exempt it from such liability.

(9) To refund all overcharges for freight, baggage or express, and pay for any loss, damage or injury to property while in its possession, within ninety (90) days after the filing of a claim for such over-charge, loss or damage.

(10) To redeem, upon presentation to any authorized ticket

agent, any passenger ticket unused in whole or in part, which has not by its terms expired, and pay therefor a pro rata share of the price for which such ticket was sold or, if wholly unused, the entire purchase price.

(11) To furnish suitable care for the transportation of livestock and transport livestock of different kinds in the same car at the option of the shipper; to deliver all livestock arriving at any terminal, billed to any stockyard within twenty (20) miles thereof, to the chutes of such stockyard within five (5) hours after arrival at the terminal unless prevented by act of God, or to any chutes within ten (10) miles of the terminal within three (3) hours after arrival thereat unless prevented by act of God; to furnish transportation without charge, in connection with livestock shipments in carload lots, for one (1) person for the first car and an additional person for each additional four (4) carloads shipped at the same time, in a caboose or other suitable car while going, and by first class passage when returning.

(12) To keep its accounts so as to show, as far as practicable, the earnings derived from, and the expenses incurred in, handling intrastate business in such form as the department commissioner shall prescribe, including the separation of accounts for each operating division, wholly or partly within the state. Such accounts shall show the total cost of operating through trains and the total cost of operating the local or distributing trains of each operating division, wholly or partly within the state, during the fiscal year to be fixed by the department commissioner, the total number of tons of revenue and non-revenue freight, the number of tons of each carried one (1) mile on the through trains and on the local trains, respectively, the number of tons and ton miles of revenue and non-revenue freight carried on through or local trains which are exclusively intrastate, and the gross tons and ton miles made by through and local trains on each division. The accounts shall show the total revenue and non-revenue train and engine miles and the total revenue and non-revenue car miles (the non-revenue car miles to be shown loaded and empty separately) produced by such railroad in the state in each operating division, the number of each of the above train, engine and car mileage produced in handling the through trains and in handling the local trains, the total locomotive miles produced in switching on each division and such further information related to the income or cost of intrastate business as the department commissioner may require. The department commissioner may require such accounts to be kept with reference to the intrastate passenger business of each carrier and the train, car and engine mileage incurred in such business in this state as it may deem necessary.

(13) During pendency of any litigation, when rates prescribed by the department commission have not been put into effect, to keep a correct account of every charge made by it for any services to which such rates apply in excess of the rates prescribed, showing in each case the difference between the amount actually charged and the amount allowed to be charged, the date of

the transaction, the stations between which the business was carried and the names and addresses of the consignor and consignee, and to report such information in full to the department *commission on their his request.*

Subd. 2. Every common carrier shall furnish to the department *commissioner :*

(1) All schedules of rates, fares and charges, every part and classification thereof, together with minimum weights and rules with respect thereto, and any and all amendments, modifications or changes therein.

(2) All information duly required in blanks and forms furnished by the department *commissioner .*

(3) A copy of all annual reports and valuation data furnished to the Interstate Commerce Commission not later than June 30th, covering the preceding calendar year, together with any additional information regarding valuation of its properties requested by the department *commissioner .*

(4) A report of accidents, wrecks and casualties occurring in this state in such manner and form and at such times as prescribed by the department *commissioner.* All such reports administered by the department of public safety shall be received and administered in accordance with the provisions of section 169.09, subdivision 13. All other reports shall be open to public inspection but shall not be admissible in evidence in any suit or action for damages growing out of such accident, wreck or casualty.

(5) All tariff agreements or arrangements with other carriers.

(6) All joint schedules of rates, fares or classifications.

Subd. 3. *Nothing in Minnesota Statutes, Chapter 218, shall limit the liability of common carriers at common law with reference to property in their custody, including absolute responsibility for the acts of their agents with reference thereto, nor shall liability be limited by contract or otherwise, except as stated in their published classification schedules.*

Subd. 4. *A common carrier, issuing any receipt or bill of lading, shall be entitled to recover from the carrier on whose line loss, damage or injury shall have been sustained, such amount as it may be required to pay to the owners of the property as evidenced by any receipt, judgment or transcript thereof.*

Subd. 5. *Any railroad company may construct and maintain at its own expense any bridges and the approaches thereto so as to answer for ordinary travel and, unless within one mile from a toll bridge previously built by an incorporated bridge company over the same stream, may charge and collect for its use reasonable toll, subject to the approval of the proper county board. A toll shall be uniform and the rates shall be conspicuously posted on or near the toll house. The company may contract with any person or corporation for the payment of a fixed sum yearly or otherwise in lieu of toll.*

Subd. 6. *An action or proceeding may be instituted, upon veri-*

fied complaint of the commissioner or any interested person in any district court of any county wherein a common carrier has a principal office or into which its railroad extends, for the enforcement of any provision of Minnesota Statutes, Chapter 218, or any order, rule or directive of the commissioner or commission, and the court may grant provisional or other relief, ordinary or extraordinary, legal or equitable, which the nature of the case may require, including temporary mandatory or restraining orders. Except when there is a constitutional right to trial by jury not expressly waived, all such proceedings shall be tried summarily by the court and such matters shall take precedence over all other matters except criminal cases.

Subd. 7. Every claim against a common carrier for any overcharge or difference in weight or for loss, damage or injury to property while in its possession, shall first be filed with either the agent at point of origin or of destination or with the freight claims department of the carrier. It shall not be filed until after arrival of shipment or some part thereof at destination or until after a lapse of reasonable time for the arrival thereof. It shall consist of: (a) original bill of lading or shipping receipt, (b) paid freight bill, (c) bill of claimant, (d) original invoices or certified copies, when necessary. True copies may be used or, in the absence thereof, an explanation. If a claim is not paid or adjusted within 90 days of its filing, suit may be commenced in any court of competent jurisdiction, in which all persons similarly situated may intervene or be joined and, if claimant prevails, a penalty of ten percent, plus legal interest, reasonable attorneys' fees, costs and disbursements shall be allowed.

Subd. 8. In all proceedings under this section, any final and duly promulgated material order, rule or directive of the commissioner or commission and all schedules of rates, fares or charges fixed by the commission shall be deemed and taken in all courts as prima facie fair and reasonable.

Subd. 9. In all proceedings under this section, the court may order payment of costs, counsel fees and disbursements as it deems just and reasonable.

Subd. 10. Any common carrier which shall do or cause to be done any unlawful act, or fail to perform any duty prescribed, or violate any duly established order, rule or directive of the commissioner or commission, or which shall aid or abet in the performance of any unlawful act or in the failure to perform any such duty, shall be liable in damages to any person injured thereby, and that person, if he recovers, shall be allowed, in addition to damages, reasonable attorneys' fees, together with costs and disbursements.

Sec. 18. Minnesota Statutes 1974, Section 218.041, is amended to read:

218.041 [DUTIES OF COMMISSIONER.] Subdivision 1. With respect to all common carriers under this chapter including express companies and sleeping car companies, the department commissioner shall investigate the management thereof, the man-

ner in which their businesses are conducted, and the adequacy of the services they are affording the public ; *and shall* prescribe uniform systems of keeping and rendering accounts and the time within which such systems shall be adopted ; direct the repair and reconstruction or replacement of any inadequate or unsafe trackage, structure or facility; and . *The commission shall* make all appropriate orders relating to continuation, termination, modification or extension of services and facilities with a view to properly promoting the security and convenience of the public.

Subd. 2. The ~~department~~ *public service commission* shall, upon petition and appropriate proceedings thereunder *after hearing* :

(1) Review and ascertain the reasonableness and equalities of all schedules of rates, fares and charges or any part or classification thereof, including joint through rates, and, if found unreasonable or discriminatory, establish new schedules and prescribe the form and manner of filing, posting and publication thereof.

(2) Order the issuance of any franchises, permits or certificates of convenience and necessity.

(3) At all points of intersection and crossings of different railroads, or where two railroads are not more than one-half ($\frac{1}{2}$) mile apart, and at all terminals, prescribe ample facilities by track connection, joint use of tracks, passenger and freight platforms and depots, warehouses, docks over which general merchandise is handled and forwarded, and other necessary appliances and conveniences for the transfer, forwarding and handling of general merchandise and parcel freight between such railroads and between such railroads and such docks, warehouses and vessels at such docks.

(4) Determine the proportionate share of each company in the cost of providing connecting and transfer facilities in the event the companies fail to agree.

(5) Direct construction, maintenance and operation at any points prescribed by law of all side tracks and reasonable facilities connecting any road with any grain warehouse or mill, dock, wharf, coal yard, quarry, brick or lime kiln, sand or gravel pit, crushed rock or concrete plant, or manufactory adjacent thereto, and prescribe the terms therefor.

(6) Direct the discontinuance of any regularly scheduled intrastate passenger trains upon a finding after public hearing that the public will not be deprived of reasonably adequate service thereby.

(7) (3) Prescribe schedules of reasonable maximum rates or charges for the transportation of freight and cars on each railroad, including the classification of such rates and rules governing the same, and revise the same from time to time.

(8) (4) Fix rates or charges for carrying livestock to St. Paul or between St. Paul and South St. Paul, provided that the railroad transporting such livestock to St. Paul shall absorb switching charges from St. Paul to South St. Paul out of its line haul rates

or charges for transportation of such livestock to St. Paul, or the common rate point which includes St. Paul.

(9) (5) Prescribe rates for feeding cattle applicable to out-movement from terminal markets. The *department commission* may unite two or more stations or commercial centers into a common rate point and may designate the classes of freight which shall take common rates, and fix the mileage that shall govern between the common rate point and any or all other points in the state. The distance so fixed shall not apply as a measure of the rate for the movement of the same class of freight for similar distances between other points.

(10) Prescribe rules and regulations for distribution of cars at stations for use of shippers of livestock and farm products.

(11) (6) Prescribe a schedule of joint through railway rates for freight over two or more connecting lines of railway and revise the same from time to time. In so doing, the *department commission* shall consider, among other things, rates established for shipments within this state for like distances over single lines, rates charged by the railway companies operating such connecting lines for joint interstate shipments, and the increased cost, if any, of a joint through shipment as compared with a shipment over a single line for like distances. In establishing rates for shipments in less than carload lots, in cases where connecting railways are not required to have common stations or stopping place for loading or unloading freight at connecting points, the *department commission* shall regulate the transportation of such freight from the usual unloading place of one railway to the usual loading place of the other. The share of any railway company of any joint through rates shall not be construed to fix the charge that it may make for a similar distance over any part of its line for any single rate shipment, or the share of any other joint rate. Where the line of a railway company connects the point of shipment with the point of destination but would require a longer haul than a joint haul for which a joint rate has been established, the *department commission* may authorize charging the joint rate for the single haul without affecting the charge upon any other part of its line except that the charge for a like kind of property must not be greater for a shorter than for a longer distance upon that railroad, all of the shorter hauls being included within the longer.

(12) (7) Define switching and drayage service to apply to the movement of traffic within and between points and fix reasonable maximum rates for the same, which shall be independent of any rates that may be made for line haul transportation. There shall be but one terminal charge for switching or transferring any car within any one municipality and, if it is necessary that any car in such transfer pass over the tracks of more than one railroad within such limits, the company first so transferring such car shall receive the entire charge therefor and be liable to each company doing subsequent switching for its just share of such charge as may be agreed upon among the companies, or, in the

event of disagreement, as prescribed by the ~~department~~ commissioner.

(8) Upon application by a carrier stating that it desires to establish a rate for a temporary period for the protection of the interests of the carriers or its shippers, authorize and establish the temporary rate, and extend the rate as the circumstances of the case may require, and permit the restoration of the rate existing at the time of the application without further proceedings.

(9) Authorize less than full fare rates for transportation of children under 12 years of age.

(10) Approve the establishment, change, or alteration of any rate, charge, or classification, minimum rate, or rule governing the same, to which a common carrier is a party, upon application of such common carrier in writing when such application appears to be noncontroversial.

Subd. 3. The commissioner shall, upon petition and after hearing:

(1) At all points of intersection and crossings of different railroads, or where two railroads are not more than one half mile apart, and at all terminals, prescribe ample facilities by track connection, joint use of tracks, passenger and freight platforms and depots, warehouses, docks over which general merchandise is handled and forwarded, and other necessary appliances and conveniences for the transfer, forwarding and handling of general merchandise and parcel freight between such railroads and between such railroads and such docks, warehouses and vessels at such docks.

(2) Determine the proportionate share of each company in the cost of providing connecting and transfer facilities in the event the companies fail to agree.

(3) Direct construction, maintenance and operation at any points prescribed by law of all side tracks and reasonable facilities connecting any road with any grain warehouse or mill, dock, wharf, coal yard, quarry, brick or lime kiln, sand or gravel pit, crushed rock or concrete plant, or manufactory adjacent thereto, and prescribe the terms therefor.

(4) Direct the discontinuance of any regularly scheduled intrastate passenger trains upon a finding after public hearing that the public will not be deprived of reasonably adequate service thereby.

(5) Prescribe rules and regulations for distribution of cars at stations for use of shippers of livestock and farm products.

~~(13)~~ (6) Require installation of track scales at terminals, warehouses and at all other points in the state where the same are deemed necessary and prescribe reasonable regulations for the weighing of cars and of freight.

~~(14)~~ (7) Prescribe the speed at which and the conditions under which cars of livestock shall be moved by any carrier within the state in intrastate shipments.

~~(15)~~ (8) Prescribe the fees necessary to cover cost of supervision and weighing and the method of assessment and collection thereof.

~~(16)~~ (9) Prescribe reasonable regulations for handling property, passenger, baggage, express and mail, partly over privately owned rights-of-way and partly over highways, so that reasonable and adequate accommodations and service may be afforded.

~~(17)~~ (10) Prescribe the extent to which any designated carrier, upon its petition, may be relieved from the operation of the principles established by section 218.021, subdivision 1, clauses (6), (7) and (8).

Subd. 4. The commissioner shall:

(1) Supervise and inspect all track scales, and direct any carrier to transport, move and switch to any track scale free of charge any test car used by the state in testing the scales;

(2) Investigate and determine whether any common carriers are granting rebates or, in any other particular, failing to comply with laws or with orders, rules or directives of the commissioner or the department;

(3) Appear and press before the Interstate Commerce Commission any petition, whether filed by a resident of the state or otherwise, charging any common carrier doing business in this state with any violation of the Interstate Commerce Act of the United States, whenever the department deems the matter to be one of public interest;

(4) Appoint at public stockyards weighers as may be necessary for the purpose of weighing livestock; a weigher shall report daily to the supervisor of the stockyards on the weights taken by him; the report shall be in the form prescribed by the commissioner and the supervisor shall furnish to interested parties a certificate setting forth the number of animals weighed, for whose account weighed and the actual weight of the animals; no weigher shall, during his term of service, be in any manner interested in the handling, shipping, purchasing or selling of livestock or in the employ of any person or corporation engaged in that activity, nor shall he be a member of any livestock exchange or organization of like character;

(5) Authorize publication on less than ten days' public notice of schedules containing all classifications, rates, fares and charges for the transportation of freight and passengers;

(6) Collect all fees prescribed by the commissioner to cover the cost of supervision and weighing, depositing the same in the state treasury in a fund known as the livestock weighing fund; and

(7) Institute and prosecute all actions and proceedings in the appropriate courts for the enforcement of the provisions of Minnesota Statutes, Chapter 218, the orders, rules and directives of the commissioner and the commission issued thereunder and any violations thereof; and

(8) *Direct the repair, reconstruction or replacement of any inadequate or unsafe trackage, structure or facility.*

Subd. 5. The commissioner may:

(1) *Subpoena books, papers or accounts kept by any regulated business within or without the state, or compel production of verified copies;*

(2) *Prepare all forms or blanks for the purpose of obtaining information which the commissioner may deem necessary or useful for the proper exercise of his authority and duties in connection with regulated businesses, and prescribe the time and manner within which the blanks and forms shall be completed and filed;*

(3) *Inspect, at all reasonable times, and copy the books, records, memoranda, correspondence or other documents and records of any business under his jurisdiction; and*

(4) *Examine, under oath, any officer, agent or employee of a business under his jurisdiction concerning its business and affairs.*

Subd. 3 6 . The ~~department~~ commissioner may ; upon its discretion and without hearing:

(1) *Order any railroad company to furnish water for the use of stock at all stockyards in the state.*

(2) *Prescribe regulations for the weighing of cars and freight offered for shipment in carload lots, approve sealing devices to be used in sealing scales and require installation of such sealing devices.*

(3) *Order in and require installation and maintenance of stock scales at all stockyards, and fix the capacity of such scales which shall be for free use of all patrons, shipping livestock from, into or through such stockyards.*

(4) *Authorize less than full fare rates for transportation of children under twelve (12) years of age.*

(5) *Approve the establishment, change, or alteration of any rate, charge, or classification, minimum rate, or rule governing the same, to which a common carrier is a party, upon application of such common carrier in writing when such application appears to be noncontroversial.*

Sec. 19. Minnesota Statutes 1974, Section 218.071, is amended to read:

218.071 [RULES AND ORDERS OF COMMISSIONER; OF FENSES AND PENALTIES.] Subdivision 1. Every duly adopted rule, order or directive of the ~~department~~ commissioner or commission shall have the full force and effect of law.

Subd. 2. Unless a different penalty or punishment is specifically prescribed, any person, firm or corporation who performs any unlawful act, or fails to perform any duty imposed upon him by this chapter, or to obey any valid and final order, rule or directive of the ~~department~~ commissioner or commission , or who assists

and aids therein, shall be guilty of a misdemeanor, and, if the violation be a continuing one, then he shall be guilty of a new offense for each day of such continuance, and for each offense shall be punished by a fine of one hundred dollars (\$100).

Subd. 3. Any common carrier, wilfully granting any special rate, rebate, drawback, or directly or indirectly charging, demanding or collecting a greater or less compensation than provided by its regular established schedule of rates and charges, shall be punished by a fine not exceeding five thousand dollars (\$5,000) for each such offense.

Subd. 4. Any common carrier failing to comply with any order of the ~~department~~ *commissioner or commission* shall be subject to a penalty of fifty dollars (\$50) for each and every day of such failure to comply, to be recovered for the state in a civil action by the department.

Sec. 20. Minnesota Statutes 1974, Section 219.03, is amended to read:

219.03 [INTERLOCKING DEVICES.] When, in the judgment of the ~~department of public service~~ *commissioner* it is necessary for the public safety ~~it~~ *he* may require, at all railroad crossings, junctions, and drawbridges in the state, the establishment of interlocking devices or such other safety appliances as are necessary for the protection and safety of the traveling public. Where two or more railroad companies are interested, the division of the expense of installing, maintaining, and operating the interlocking plant or safety device shall be agreed upon by the respective companies required to install the same; in case they cannot agree such division shall be determined by the ~~department~~ *commissioner* after a hearing.

Sec. 21. Minnesota Statutes 1974, Section 219.04, is amended to read:

219.04 [BLOCK SIGNAL SYSTEM; APPROVAL BY COMMISSIONER.] The ~~department~~ *commissioner* may require any railroad company on any part of its lines operated in this state to install and operate a "block signal system" or any other device or appliance that in its judgment will best promote the public safety. When any railroad company proposes to install in this state any interlocking plant, block signal system, or other safety appliance on any part of its system it shall first submit the plans to the ~~department~~ *commissioner* for approval and after the same is installed, have the department inspect same and issue a certificate before the plant is operated.

Sec. 22. Minnesota Statutes 1974, Section 219.14, is amended to read:

219.14 [RAILROAD CROSSINGS PROTECTED.] Subdivision 1. [INVESTIGATION.] The ~~department of its~~ *commissioner* on *his* own motion may investigate and determine whether any railroad crossing over any street or public highway now or hereafter established and traveled or to be traveled in this state is or will be when opened to public travel dangerous to life and property, or

either, and may order the same protected in any manner it may find reasonable and proper, including requiring the company to separate the grades.

Subd. 2. [HEARING.] The department commissioner shall give the interested railroad company interested such notice of the investigation as it he deems reasonable of the investigation, and an opportunity to be heard before any order is made.

Sec. 23. Minnesota Statutes 1974, Section 219.17, is amended to read:

219.17 [UNIFORM WARNING SIGNS.] The department is hereby authorized and required to adopt and prescribe uniform warning signs for use at grade crossings in this state which will furnish adequate warning of the existence and nature of such grade crossings and to make regulations as to the place of installation commissioner by rule shall require that uniform warning signs be placed at grade crossings in this state. There shall be at least three distinct types of such warning signs: a home crossing sign, for use in the immediate vicinity of the crossing, an approach crossing sign, to indicate the approach to a grade crossing, and a stop sign, which shall have the word "stop" plainly appearing thereon, to indicate the necessity to persons on the highway approaching the crossing, whether in vehicles or otherwise, to come to a stop before proceeding over the grade crossing.

Sec. 24. Minnesota Statutes, 1974, Section 219.19, is amended to read:

219.19 [ADDITIONAL WARNING SIGNS; RAILROADS TO PROVIDE.] At each grade crossing where, because of the conditions surrounding the same, the reasonable protection to life and property makes it necessary for additional warning signs to be placed on the highway at a greater distance from the crossing than the home signs, such approach warning signs shall be installed. The department is hereby authorized to commissioner may designate any such grade crossings requiring such additional signs on either or both sides of said crossing. When any such crossing is designated by the department commissioner as requiring such additional protection, it he shall notify the railway company operating the railroad thereat and the public authorities having the care of the highway. Such railway company shall, within 30 days after such notification, furnish such uniform signs to such public authorities, and such public authorities shall erect these signs in conspicuous places on the highway on either or both sides of such grade crossings, as the case may be, not less than 200 feet from the crossing and thereafter maintain the same.

Sec. 25. Minnesota Statutes 1974, Section 219.20, is amended to read:

219.20 [STOP SIGNS.] Subdivision 1. At each grade crossing where, because of the dangers attendant upon its use, the reasonable protection of life and property makes it necessary for all persons approaching the same to stop before crossing the railroad tracks thereat, such stop signs shall be installed. The department

is hereby authorized ~~to~~ *commissioner* may designate any such crossing requiring such additional protection as a stop crossing, and shall notify the railway company operating the railroad thereat of such designation. Within 30 days after such notification it shall be the duty of such railway company to erect such uniform stop crossing signs in conspicuous places on each side of the crossing.

Subd. 2. When a stop sign has been erected at a railroad crossing the driver of any vehicle shall stop within 50 feet, but not less than ten feet, from the nearest track of the crossing and shall proceed only upon exercising due care.

Sec. 26. Minnesota Statutes 1974, Section 219.23, is amended to read:

219.23 [WATCHMEN; RAILROADS TO PROVIDE.] When the ~~department~~ *commissioner*, in any investigation instituted upon ~~its~~ *his* own motion or upon complaint and after notice and hearing, finds that the presence of a watchman is necessary for the protection of life and property at any grade crossing, ~~it~~ *he* shall order the railway company operating the railroad thereat to provide such watchman and shall specify in such order the hours during which the presence of the same is required. It shall thereupon be the duty of such railway company to provide such watchman during such time. Such watchman shall have full control over the traffic at this crossing.

Sec. 27. Minnesota Statutes 1974, Section 219.24, is amended to read:

219.24 [ADDITIONAL SAFEGUARDS.] When, in any investigation instituted upon its own motion or upon complaint and after notice and hearing, the ~~department~~ *commissioner* finds that conditions exist at any grade crossing which in ~~its~~ *his* opinion require any additional safeguards for the protection of life and property, such as crossing gates or other suitable devices, the ~~department~~ *is authorized to commissioner* shall specify the nature of the devices required and ~~to~~ *may* order the railway company operating the railroad at such crossing to install the same.

Sec. 28. Minnesota Statutes 1974, Section 219.25, is amended to read:

219.25 [CROSSING GATES.] When, in any investigation instituted upon its own motion or upon complaint and after notice and hearing, the ~~department~~ *commissioner* finds that the protection of life and property requires the constant operation of crossing gates, where the same are now or may be hereafter installed, the ~~department~~ *is authorized to commissioner* may order any railway company operating the railroad at such crossing to provide persons to operate such crossing gates for the full 24 hours of each day.

Sec. 29. Minnesota Statutes 1974, Section 219.26, is amended to read:

219.26 [GRADE CROSSINGS; UNIFORMITY OF DEVICES]

FOR PROTECTION.] It shall be the duty of the ~~department commissioner~~ , so far as practicable, to secure uniformity in the devices used to protect grade crossings. No such devices shall be installed until the same have been approved by the ~~department commissioner~~ . All such devices which are now in use or which may be hereafter installed, which, in the opinion of the ~~department commissioner~~ , conflict with the devices approved by the ~~department commissioner~~ , either in their design or method of operation, so as to create a hazardous condition to the travel at such crossing, shall be immediately modified by the railroad company controlling the same so as to conform to those approved by the ~~department commissioner~~ .

Sec. 30. Minnesota Statutes 1974, Section 219.27, is amended to read:

219.27 [VACATING OR RELOCATING CROSSINGS; HEARINGS.] When it is desired, either by the public officials having the necessary authority or by the railway company operating the railroad, to vacate or relocate any crossing of a public highway and a railroad, and an agreement cannot be reached between such public officials and the railway company, either as to such vacation or relocation, or as to the place, manner of construction, or a reasonable division of expense in the case of a relocation, either party may file a petition with the ~~department commissioner~~ , setting forth the facts and submitting the matter to it ~~him~~ for determination; whereupon the ~~department~~, after such notice as it shall deem reasonable, ~~commissioner~~ shall conduct a hearing in accordance with Minnesota Statutes, Chapter 15, and shall issue its ~~his~~ order determining the matters so submitted; and unless the ~~department commissioner~~ finds that the interests and safety of the public require the continued existence of such crossing, it may order the same to be vacated or relocated, as the case may be.

Sec. 31. Minnesota Statutes 1974, Section 219.28, is amended to read:

219.28 [OVERHEAD OR UNDERGROUND CROSSINGS; SEPARATE GRADES.] The ~~department commissioner~~ may require any railroad company to construct overhead and maintain underground crossings and separate grades when, in its ~~his~~ opinion, the interests and safety of the public require, and no overhead or underground crossings, nor separation of grade, shall be made except upon petition therefor to the ~~department~~ , and with the approval of the ~~department commissioner~~ .

Sec. 32. Minnesota Statutes 1974, Section 219.383, is amended to read:

219.383 [SAFE OPERATION OF TRAINS OVER STREETS AND HIGHWAYS.] Subdivision 1. [RATE OF SPEED FOR TRAINS.] The ~~department of public service commissioner~~ on petition of any city council or any railway corporation may fix and determine after a hearing a reasonable rate of speed for the operation of an engine or train on and over any railroad crossing of a public highway or street in such city.

Subd. 2. [PROCEDURE.] The procedure before the department of public service commissioner and the right of appeal under this section shall be that provided in Minnesota Statutes 1944, Chapter 216, and acts amendatory thereof 15.

Subd. 3. [MAXIMUM RATE OF SPEED.] Where the department of public service commissioner has fixed the rate of speed of an engine or train over a public highway or street crossing in a city as provided in this section, such rate of speed so fixed shall be the lawful maximum rate of speed at which an engine or train can be operated on and over such public highway or street crossing, until changed by subsequent order of the department commissioner.

Subd. 4. [NOT TO BLOCK PUBLIC ROADS OR STREETS.] No railway corporation shall permit any public road or street crossing a railroad track to be closed for traffic by a standing car, train, or engine or other railroad equipment for a longer period than ten minutes, provided, this section shall not apply to cities of the first class which regulate obstruction of streets by ordinance.

Subd. 5. [VIOLATION.] Any railway corporation violating any provision of this section shall be guilty of a misdemeanor and upon conviction therefor shall be liable for a fine of not less than \$25 nor more than \$100.

Sec. 33. Minnesota Statutes, 1975 Supplement, Section 219.39, is amended to read:

219.39 [DANGEROUS CROSSINGS; COMPLAINT; HEARINGS.] *On his own motion, or upon written complaint authorized by a majority vote of the members of the council the governing body of any city or county, or by the board of supervisors of any town, or board of county commissioners of any county in this state, or by the commissioner of highways, filed with the department, by the chief executive officer of the city, the chairman of the board of supervisors or the county commissioners, or the commissioner of highways, as the case may be, alleging that any railroad crossing with any street, road or highway in the city, or town or county road, or state aid road or trunk highway, is dangerous to life and property, and giving the reasons therefor, the department commissioner shall proceed to investigate the matters contained in the complaint, and, where necessary, convene a hearing, at a time and place to be fixed by the department commissioner, after such notice to the complainant and the railroad as the department commissioner may deem reasonable.*

Sec. 34. Minnesota Statutes, 1975 Supplement, Section 219.40, is amended to read:

219.40 [DETERMINATION; ORDER; FLAGMEN OR SAFETY DEVICE.] *The department shall decide the matter set forth in the complaint and make a proposal for decision in writing, including findings of fact, and make such proposed order as it shall deem proper in the premises and, if the department shall find the crossing to be dangerous, it If a complaint is made under section 219.39, the commissioner shall determine whether the crossing is dangerous and may with or without hearing require the*

railroad company complained of to provide flagmen at such crossing, or to adopt such safety ~~device~~ *devices* as the ~~department~~ *commissioner* may deem necessary for the proper protection of the crossing, or it may require the removal of any structure, embankment or other obstruction to the view, or it may require the crossing complained of or other crossing in the vicinity thereof closed, or it may require the railroad company to construct an overhead or maintain an underground crossing and divide the cost thereof between the railroad company, the town, county, municipal corporation, or state highway department interested, on such terms and conditions as ~~to the department~~ *the department* may seem just and equitable. Where the railroad has been constructed or the grade thereof lowered after the laying out of the highway and the railroad tracks are seven feet or more below the natural surface of the ground, the ~~department~~ *commissioner* may require the maintenance of an overhead bridge with suitable approaches and require the complaining city, town, or county to remove any embankment, structure or other obstruction to the view as may be reasonable and necessary to properly protect the crossing; provided, that no highway shall be laid out over any railroad so as to cross at the same grade until such crossing has been approved by the ~~department~~ *commissioner*. If the complainant or the railroad files exceptions to a ~~proposal for a decision~~ *an order of the commissioner made under this section* without a hearing, the ~~department~~ *commissioner* shall convene a hearing ~~and on the original complaint~~. If the ~~department of public service~~ *commissioner or his designee* after notice and hearing orders the installation of a safety device, or the construction, reconstruction, modernization or replacement of major parts, as defined by the ~~department~~ *rule of the commissioner*, of said safety device, gates, or other type of special protection, or the removal of a structure, embankment or other obstruction to the view, or orders the construction, reconstruction or maintenance of an underground or overhead crossing on any public road, street, or highway, ~~it~~ *he* may in the same order direct that the costs thereof be divided between the railroad company and the public authority involved on such basis as the parties may agree, or, if they fail to agree, then the costs thereof shall be as determined by the ~~department of public service~~ *commissioner or his designee* on the basis of benefit to the users of each; or the ~~department~~ *commissioner or his designee* may defer determination of the division of costs to a subsequent order to be made on the basis of evidence previously taken. Where a state trunk highway is involved, the state's share of the costs shall be paid from any funds available to the department of highways. In all other cases the public's share of the costs shall be paid from available funds or from the Minnesota highway safety account, if ordered by the ~~department~~ *commissioner or his designee*, or from any combination of the above or other available funds; provided that any highway, street or road fund shall only be expended for such costs on a highway, street or road within the political subdivision charged with the maintenance and care thereof and only upon the highways, streets or roads for which the fund was allocated, or for which the fund was created.

Sec. 35. Minnesota Statutes 1974, Section 219.401, is amended to read:

219.401 [HIGHWAY SAFETY ACCOUNT]. Subdivision 1. There is hereby created in the treasury of the state a Minnesota highway safety account which shall consist of the moneys hereinafter appropriated and which shall be supervised, regulated and controlled by the Minnesota department of public service as hereinafter provided *commissioner*.

Subd. 2. Notwithstanding the provisions of any law to the contrary, all moneys credited to the Minnesota highway safety account are hereby appropriated annually for the purposes of carrying out the terms and provisions of Minnesota Statutes 1965, *Sections Section 219.40 and 219.401*.

Sec. 36. Minnesota Statutes 1974, Section 219.41, is amended to read:

219.41 [APPEAL; ORDER, HOW ENFORCED.] Any railroad company, or the city, town or county making the complaint, may appeal from an order of the *department commissioner* to the district court of the county in which the crossing is located; and, in case of such appeal, the same proceedings shall be had as is now provided by law for an appeal from orders of the *department commissioner*. All orders of the *department commissioner* shall be enforced by the attorney general.

Sec. 37. Minnesota Statutes 1974, Section 219.42, is amended to read:

219.42 [FAILURE TO COMPLY; PENALTY.] Any railroad company or any city, town, or county failing to comply with any order of the *department commissioner* that is not appealed from; or, if appealed from, affirmed in whole or in part, shall be liable to a penalty of \$50 for each and every day of such non-compliance to be collected in civil action brought by the attorney general.

Sec. 38. Minnesota Statutes 1974, Section 219.43, is amended to read:

219.43 [TEMPORARY FLAGMAN.] When it shall appear from any cause that an unusual number of trains are being operated in or through any city in this state the *department shall have power commissioner may*, upon complaint made by the city council, to compel the installation of a flagman, or flagmen, as the case may be, without a hearing and such order shall be complied with within five days; provided, that such railroad company may remove such flagmen when the movements of trains through such city assumes normal conditions.

Sec. 39. Minnesota Statutes 1974, Section 219.46, Subdivision 1, is amended to read:

219.46 [UNLAWFUL STRUCTURES; CLEARANCES.] Subdivision 1. [STRUCTURES.] On and after the passage of Laws 1913, Chapter 307, it shall be unlawful for any common carrier, or any other person, to erect or reconstruct and thereafter maintain

on any standard gauge road on its line or on any standard gauge sidetrack used in connection therewith, for use in any traffic mentioned in section 219.45, any warehouse, coal chute, stock pen, pole, mail crane, standpipe, hog drencher, or any permanent or fixed structure or obstruction, or in excavating allow any embankment of earth or natural rock to remain upon its line of railroad, or on any sidetrack used in connection therewith at a distance less than eight feet measured from the center line of the track, which structure or obstruction adjoins on standard gauge roads; nor shall any overhead wires, bridges, viaduct or other obstruction passing over or above its tracks as aforesaid be erected or reconstructed at a less height than 21 feet, measured from the top of the track rail.

If after May 1, 1943, overhead structures or platforms or any structures designed only to be used in the loading or unloading of cars are rebuilt or remodeled, then such overhead structures shall be built with an overhead clearance of not less than 22 feet from the top of the rail and such structures or platforms shall be built with a side clearance of not less than eight feet six inches from the center line of the track unless by order the ~~department~~ *commissioner* may provide otherwise.

Laws 1913, Chapter 307, shall not be construed to apply to yards and terminals of depot companies or railway companies used only for passenger service. In the event of personal injury sustained by any employee of any such company in this paragraph mentioned, by reason of noncompliance with the provisions of Laws 1913, Chapter 307, such employee, or in case of his death, his personal representative, shall have all the rights, privileges and immunities enumerated in Laws 1913, Chapter 307, Section 9.

On and after May 1, 1943, it shall be unlawful for any common carrier, or any other person, to erect or construct on any standard gauge road on its line or on any standard gauge sidetrack or spur used in connection therewith, for use in any traffic mentioned in section 219.45, any warehouse, coal chute, stock pen, pole, mail crane, standpipe, hog drencher, or any permanent or fixed structure or obstruction, or in hereafter excavating allow any embankment of earth or natural rock to remain upon its line of railroad, or on any sidetrack used in connection therewith at a distance less than eight feet six inches measured from the center line of the track, which said structure or obstruction adjoins on standard gauge roads, nor shall any overhead wires, bridges, viaduct or other obstruction passing over or above its tracks as aforesaid be erected or constructed at a less height than 22 feet, measured from the top of the track rail.

Sec. 40. Minnesota Statutes 1974, Section 219.46, Subdivision 4, is amended to read:

Subd. 4. [MAY MAINTAIN EXISTING TRACKS.] It shall not be unlawful for any common carrier or any other person to maintain or reconstruct any tracks now in existence which were constructed after April 16, 1913, in accordance with the then existing clearance law or to maintain or reconstruct tracks which,

if constructed prior to said date, were constructed with clearances as provided in Laws 1913, Chapter 307, or to maintain or reconstruct tracks built in accordance with the provisions of Laws 1913, Chapter 448. As to tracks that were constructed with a less clearance than 13 feet between center lines prior to April 16, 1913, it is hereby declared that the maintenance of a clearance of less than 13 feet between center lines in railroad switching yards may create a hazard and the ~~department~~ *commissioner* is hereby authorized on petition by an affected party and after hearing, where a greater clearance can be reasonably provided, to require adequate and safe clearances as rapidly as possible in such yards.

Sec. 41. Minnesota Statutes 1974, Section 219.46, Subdivision 7, is amended to read:

Subd. 7. [ORDER FOR LESS CLEARANCE.] The ~~department~~ *commissioner* after a hearing may authorize in the construction and reconstruction of bridges and tunnels by general order a less clearance than eight feet six inches from the center line of the track at a height of not to exceed six feet above the top of the rail and a clearance of less than eight feet six inches from the center line of the track at a point which shall not be less than 14 feet 6 inches above the top of the rail.

Sec. 42. Minnesota Statutes 1974, Section 219.47, is amended to read:

219.47 [EXCEPTIONS.] The ~~department~~ *commissioner* may upon application made, after a thorough investigation and hearing in any particular case, permit any common carrier or any person or corporation to which Laws 1913, Chapter 307, as amended, applies to erect any overhead or side obstruction at a less distance from the track than herein provided for, and to construct any track or tracks at a less clearance than herein provided for, and to reconstruct and maintain the same when in the judgment of said ~~department~~ *the commissioner* a compliance with the clearance prescribed herein would be unreasonable or unnecessary or the erection or construction of such overhead or side obstruction or tracks or the reconstruction and maintenance of the same at a less clearance than herein provided would not create a condition unduly hazardous to the employes of such common carrier or any person or corporation.

Sec. 43. Minnesota Statutes 1974, Section 219.51, is amended to read:

219.51 [PENALTIES.] Any common carrier, corporation, or person subject to the provisions of sections 219.45 to 219.53 violating any of the provisions thereof, shall be liable to a penalty of not more than \$500 for each violation; and if any common carrier, person, or corporation shall thereafter fail to correct any violation of sections 219.45 to 219.53 when ordered to correct the same by the ~~department~~ *commissioner* and has failed to do so within the time provided in the order of the ~~department~~ *commissioner*, and no appeal has been taken from the order, then the failure of such common carrier, person, or corporation to correct the condition causing a violation of sections 219.45 to 219.53 as in the order of

the ~~department commissioner~~ provided shall constitute a new and separate offense distinct and separate from the original violation of sections 219.45 to 219.53, such penalty to be recovered in a suit to be brought in the name of the state of Minnesota by the attorney general or under his direction in any court having jurisdiction thereof in the locality where such violation shall have been committed, and it shall be the duty of the attorney general under the direction of the ~~department commissioner~~ to bring such suit upon duly verified information being lodged with him by any person of such violation being committed, and it shall also be the duty of the ~~department commissioner~~ to lodge with the attorney general information of any such violation as may come to ~~its~~ his knowledge.

Sec. 44. Minnesota Statutes 1974, Section 219.52, is amended to read:

219.52 [INSPECTORS OF BUREAU OF LABOR; DUTIES.] Where any structure is at a less distance from the track than as provided by sections 219.45 to 219.53 the ~~department commissioner~~ shall provide for warning signs to be placed thereon of such design and type as the ~~department commissioner~~ shall deem proper unless the ~~department commissioner~~ shall determine such a sign is unnecessary. It shall be the duty of the railroad inspectors of the department of labor and industry to report to the ~~department commissioner~~ and to the attorney general any violation of the provisions of sections 219.45 to 219.53 of which they may obtain knowledge.

Sec. 45. Minnesota Statutes 1974, Section 219.54, is amended to read:

219.54 [FREIGHT PLATFORMS.] Every railroad company shall provide at all stations in statutory cities containing 250 inhabitants or more within 30 days after written notice, served in the same manner as a summons in district court, from the city council of such city requiring such company so to do, and at other stations and sidings when required by the ~~department commissioner~~, immediately alongside of its tracks or sidetracks, platforms with approaches at each end, suitable and convenient for loading upon and unloading from its cars heavy machinery and other freight. Such platforms shall be at least 12 feet wide, strongly built, and floored with plank at least three inches thick. The platforms, exclusive of approaches, shall be at least 32 feet long and of the height of the floor of an ordinary box car, and the approaches of such grade that heavily loaded teams can be driven up and down the same. Any such company failing to comply with the provisions of this section shall forfeit to the state not less than \$500 nor more than \$1,000 for every 30 days that such failure shall continue.

Sec. 46. Minnesota Statutes 1974, Section 219.55, is amended to read:

219.55 [LOADING PLATFORMS.] When required by the ~~department commissioner~~, every railroad company shall construct and maintain at each station and siding a suitable platform for the

purpose of loading grain, livestock and other commodities into its cars for shipment. The ~~department~~ *commissioner* may require the enlargement of any platform so constructed or the construction of additional platforms at any such station or siding, when it deems it necessary for that purpose. Every such company which shall fail to construct any such platform within 60 days after the service on it of the order of the ~~department~~ *commissioner* requiring such construction, shall forfeit to the state \$25 for each day thereafter that such platform remains unconstructed.

Sec. 47. Minnesota Statutes 1974, Section 219.562, Subdivision 3, is amended to read:

Subd. 3. Should any dispute arise as to the adequacy of the facilities provided for in subdivision 1, it may be submitted for final determination to the ~~public service commissioner~~ *commissioner* after notice of the hearing to affected parties.

Sec. 48. Minnesota Statutes 1974, Section 219.65, is amended to read:

219.65 [CARS IN TRAIN; POWERS OF COMMISSIONER.] The ~~department~~ *commissioner* may from time to time after full hearing and for good cause shown increase the minimum percentage of cars in a train required to be operated by power or train brakes, and a failure to comply with any requirement of the ~~department~~ *commissioner* shall be subject to a like penalty as a failure to comply with any requirement of sections 219.58 to 219.66.

Sec. 49. Minnesota Statutes, 1975 Supplement, Section 219.662, Subdivision 5, is amended to read:

Subd. 5. Each such railroad shall notify the ~~department of public service commissioner~~ of the date that each such locomotive comes into compliance with the provisions of this section. The notification shall state the serial number or other identification of the locomotive.

Sec. 50. Minnesota Statutes, 1975 Supplement, Section 219.662, Subdivision 6, is amended to read:

Subd. 6. Each railroad affected by the provisions of this section shall maintain at a designated location a list or schedule of the locomotives hereinabove referred to. It shall set forth, along with other information, the date that the speed indicator or speed recorder referred to herein was calibrated and found to be functioning in accordance with the provisions of this section. It shall advise the ~~department of public service commissioner~~ as to such location.

Sec. 51. Minnesota Statutes, 1975 Supplement, Section 219.662, Subdivision 7, is amended to read:

Subd. 7. The ~~department of public service commissioner~~ shall enforce the provisions of this section and may issue such order or orders as may be proper to require compliance therewith.

Sec. 52. Minnesota Statutes 1974, Section 219.681, is amended to read:

219.681 [REMOVAL OF RAILROAD TRACKS.] No company operating a line of railroad in this state shall abandon, close for traffic, or remove any spur, industrial, team, switching or side track which has been used directly by the shipping public or any member thereof for the loading or unloading of freight without first having obtained the approval of the ~~department~~ *commissioner*.

Sec. 53. Minnesota Statutes 1974, Section 219.70, is amended to read:

219.70 [APPLICATION TO ABANDON.] Any such company desiring to abandon any shop or terminal or move any shop or change the location of any terminal in this state shall first make application to the ~~department~~ *commissioner* in writing. Before passing upon such application the ~~department~~ *commissioner* shall order a public hearing and ~~fix a time and place thereof and require such notice thereof to be given as it deems reasonable in accordance with Minnesota Statutes, Chapter 15.~~

Sec. 54. Minnesota Statutes 1974, Section 219.71, is amended to read:

219.71 [HEARING; ORDER.] In the hearing on the abandonment or removal of a shop or terminal, if it ~~shall be made to appear to the department~~ *commissioner determines* that the abandonment of any shop or terminal or the change of any shop or terminal will result in efficiency in railroad operation and will not substantially injure the public or be detrimental to the public welfare, such petition may be granted, otherwise the same shall be denied.

Sec. 55. Minnesota Statutes 1974, Section 219.741, is amended to read:

219.741 [APPLICATION FOR REMOVAL.] Any railroad company desiring to abandon, close for traffic, or remove any of its tracks described in section 219.681 shall first make application to the department in writing. Before passing upon such application the ~~department~~ *commissioner* shall fix a time and place for hearing and a notice of such hearing shall be served upon all interested persons so far as known to the ~~department~~ *commissioner*.

Sec. 56. Minnesota Statutes 1974, Section 219.742, is amended to read:

219.742 [PROCEDURE; APPEAL.] The procedure before the ~~department~~ *commissioner* and the right of appeal shall be pursuant to and in accordance with Minnesota Statutes 1944, Chapter 216, and ~~acts amendatory thereof~~ 15.

Sec. 57. Minnesota Statutes 1974, Section 219.751, is amended to read:

219.751 [RESTORATION OF TRACKS FOR SERVICE.] Subdivision 1. When the ~~department~~ *commissioner* is informed of

the abandonment, closing for traffic, or removal of any track in violation of section 219.681, ~~it~~ *he* shall forthwith order the company which has committed such violation to restore such track for service and to resume service thereon, and if such track has been removed, to relay such track.

Subd. 2. When any such company shall fail to obey an order of the ~~department~~ *commissioner* made pursuant to subdivision 1, the ~~department~~ *commissioner*, upon verified petition alleging such failure, may apply to the district court of the county in which such company has a principal office, or into which a line of railroad of such company extends, for the enforcement of such order or other appropriate relief. The court, upon such notice as it may direct, shall hear such matter as in case of an appeal from an order. On such hearing the findings of fact upon which such order is based shall be prima facie evidence of the matters therein stated, and the court may grant any provisional or other relief, ordinary or extraordinary, legal or equitable, which the nature of the case may require, and may impose a fine of not more than \$500 for each day's failure to obey any writ, process, or order of the court in addition to all other penalties herein provided. A temporary mandatory or restraining order may be made in such proceeding, notwithstanding any undetermined issue of fact, upon such terms as the court may direct.

Sec. 58. Minnesota Statutes 1974, Section 219.85, is amended to read:

219.85 [RAILROAD STATIONS, AGENCY SERVICE.] Agency service at common carrier railroad stations shall be that required by the public convenience and necessity. No such station shall be abandoned nor agency service thereat reduced or discontinued without the consent of the ~~department of public service~~ *commissioner* after public notice and hearing. The ~~department~~ *commissioner* may on ~~its~~ *his* own motion or upon the petition of any interested party order station agency service at any station established, reestablished or expanded after notice and hearing as herein provided. ~~All Hearings provided herein shall be conducted in the same manner as other hearings before said department~~ *the commissioner* with not less than 30 days' notice to such persons and in such a manner as may be prescribed by rule of the ~~department~~ *commissioner*.

Sec. 59. Minnesota Statutes 1974, Section 219.86, is amended to read:

219.86 [STATION LIGHTS.] The ~~department~~ *is hereby authorized and empowered commissioner may*, on complaint duly made and after hearing, ~~to order that~~ any railroad company operating within the state ~~shall to~~ provide or cause to be provided suitable electric lights and lighting in and about every railroad station on its lines in this state, including waiting rooms, offices of employees, and station platforms thereof, and they are hereby required to keep and maintain the lighting system in good and proper repair. In case there is no electric light current or connections within 500 feet from such stations, then and in such case, the

railroad companies shall provide and maintain in good and proper repair and condition, other suitable lighting in and about the railroad stations and platforms.

Sec. 60. Minnesota Statutes 1974, Section 219.87, is amended to read:

219.87 [TOILET ROOMS AT STATIONS.] The ~~department is hereby authorized and empowered~~ commissioner may, on complaint duly made, to order that all railroad companies operating within the state shall to provide or cause to be provided suitable toilet rooms in or immediately adjacent to every railroad station waiting room located on its lines in this state, and they are hereby required to maintain and keep these toilet rooms in a good sanitary condition. In case there is no water and sewerage system in towns where railroad station waiting rooms are located, which extends to a point not more than 300 feet distant from such station waiting rooms, then and in such case the railroad companies shall provide and maintain in good sanitary condition, within a reasonable and convenient distance of the station waiting rooms, suitable closet or privy.

Sec. 61. Minnesota Statutes 1974, Section 219.92, is amended to read:

219.92 [NEW ROADS; NOTICE; FILING OF MAPS AND PROFILES.] Every railroad company having constructed any railroad by way of branch or extension or otherwise, before opening the same to public use, shall notify the ~~department commissioner~~ that the same is finished and in a safe condition for operation, and shall file with the ~~department commissioner~~ a map and profile thereof with table of grades, curvatures, and mileage, and a statement of other characteristics of such road and an itemized statement showing the actual cost thereof; all of the foregoing to be in such form as the ~~department commissioner~~ shall prescribe and to be attested by the oath of the president or other managing officer, and the chief engineer of the company.

Before the new line is operated as a public road, the ~~department commissioner~~ shall inspect the same, or cause it to be inspected, and furnish the company with a certificate showing compliance with the foregoing conditions, and that the road has been inspected and found to be in safe condition for operation.

When it is found desirable to operate any portion of any new railroad built or any new branch or extension, or otherwise, before completion of the same, the ~~department commissioner~~ may, on application, authorize the operation of such portion thereof pending the completion of the entire road under such terms and conditions as the ~~department commissioner~~ may impose in the interests of the public.

Sec. 62. Minnesota Statutes 1974, Section 219.93, is amended to read:

219.93 [STOPPING TRAINS AT CROSSINGS.] Every company operating a railroad shall cause all trains on such railroad to come to a full stop not less than 10, nor more than 60, rods, before

reaching any railroad junction or crossing at grade, unless such stoppage is rendered unnecessary by an interlocking plant or other device approved by the written order of the ~~department~~ *commission*, or by the court upon appeal.

Sec. 63. Minnesota Statutes 1974, Section 219.97, Subdivision 2, is amended to read:

Subd. 2. Any railroad company neglecting to comply with any order of the ~~department~~ *commissioner* made under section 219.03 or section 219.04 shall be liable to a penalty of \$25 for each day such neglect shall continue to be recovered in a civil action in the name of the state and paid into the general fund of the state treasury.

Sec. 64. Minnesota Statutes 1974, Section 219.97, Subdivision 12, is amended to read:

Subd. 12. Any carrier failing to comply with the provisions of section 219.92 or with any order of the ~~department~~ *commissioner* made thereunder shall forfeit for each day's default \$100 to be recovered in a civil action in the name of the state of Minnesota.

Sec. 65. Minnesota Statutes 1974, Section 221.011, Subdivision 1, is amended to read:

221.011 [DEFINITIONS.] Subdivision 1. For the purposes of sections ~~221.011 to 221.291~~ *chapter 221*, the terms defined in this section have the meanings given them.

Sec. 66. Minnesota Statutes 1974, Section 221.011, Subdivision 2, is amended to read:

Subd. 2. "Department" means *the department of public service of Minnesota transportation*.

Sec. 67. Minnesota Statutes 1974, Section 221.011, is amended by adding subdivisions to read:

Subd. 2a. "Commissioner" means the commissioner of transportation.

Subd. 2b. "Commission" means the public service commission.

Sec. 68. Minnesota Statutes 1974, Section 221.011, Subdivision 15, is amended to read:

Subd. 15. "Motor carriers" includes all carriers operating under the authority of sections 221.011 to 221.291 and subject to the ~~regulations of the department~~ *rules or orders of the commissioner or the commission*.

Sec. 69. Minnesota Statutes, 1975 Supplement, Section 221.011, Subdivision 22, is amended to read:

Subd. 22. "Exempt carrier" means any carrier exempt from chapter 221, or *exempted* from any other law or ~~regulation~~ *rule* by the ~~public service commission~~ *commissioner or commission*. The following are so exempt:

(a) Any person engaged in farming or in transporting agricul-

tural, horticultural, dairy, livestock, or other farm products within an area having a 25 mile radius from his home postoffice. Such carrier may transport other commodities within such area if the destination of each haul is a farm within the above described area. The owner of any truck operating under this provision shall imprint his name and address in prominent visible letters on the outside of the cab of his truck.

(b) Any occasional accommodation service beyond the 25 mile radius from his home postoffice by any person engaged in farming as his primary means of livelihood and actually residing on a farm and whose truck or trucks are licensed under provisions of section 168.013, subdivision 1, paragraph 4a. Occasional accommodation service shall mean not in excess of six trips in any calendar year.

(c) Any person engaged in agricultural pursuits, who owns and uses a truck for transporting the products of his farm, or any person while engaged exclusively in the transportation of fresh vegetables from farms to canneries or viner stations, or from viner stations to canneries, or from canneries to canneries during the harvesting, canning or packing season, or potatoes, sugar beets, wild rice and rutabagas from the field of production to the first place of delivery or unloading, including but not limited to a processing plant, warehouse or railroad siding. This term shall also apply to a manufacturer, producer, dealer or distributor who, in the pursuit of his own business, owns and uses trucks for the purpose of transporting his own products, and shall apply to any person while engaged exclusively in the transportation of pulpwood, cord wood, mining timber, poles, posts, decorative evergreens, wood chips, sawdust, shavings and bark from the place where the products are produced to the point where they are to be used or shipped.

(d) Any person while exclusively engaged in the transportation of dirt and sod within an area having a 50 mile radius from his home postoffice.

(e) Any person while exclusively engaged in the transportation of sand or gravel, bituminous asphalt mix and or crushed rock to or from the point of loading or a place of gathering within an area having a 50 mile radius from his home postoffice or a 50 mile radius from the site of construction or maintenance of public roads and streets.

(f) Any person engaged in the transportation of household goods for the federal government or any agency thereof or the transportation of household goods for the state government or any agency thereof, where competitive bids are required by law shall be exempt from the provisions of section 221.161.

(g) Any person engaged in transporting property or freight, excepting household goods and petroleum products in bulk, when the movement is entirely within the corporate limits of a city or between contiguous cities.

(h) Emergency vehicles such as ambulances, tow trucks, and hearses when carrying proper and legal warning devices.

(i) Any person engaged in delivery or spreading of agricultural lime.

(j) Any person engaged in transporting rubbish as defined in section 443.27.

(k) Any person engaged in the transportation of grain samples under such terms and conditions as the ~~department~~ *commissioner or commission* may prescribe.

Sec. 70. Minnesota Statutes 1974, Section 221.021, is amended to read:

221.021 [OPERATION CERTIFICATE OR PERMIT REQUIRED.] No person shall operate as a motor carrier without a certificate or permit in full force and effect with respect to such operation. Any certificate or permit shall be suspended or revoked upon conviction of violating any provision of sections 221.011 to 221.291 or any order, rule or regulation of the ~~department~~ *commissioner or commission* governing the operation of motor carriers, and upon a finding by the court that the violation was wilful ; ~~or~~ . The ~~department~~ *commission* may for good cause, after hearing and upon ten days notice to the holder thereof, suspend or revoke any permit for a violation of the provision of the sections noted herein or any order, rule or regulation of the ~~department~~ *commissioner or commission* issued pursuant to the provisions of chapter 221.

Sec. 71. Minnesota Statutes 1974, Section 221.031, Subdivision 1, is amended to read:

221.031 [RULES FOR OPERATION OF MOTOR CARRIERS.] Subdivision 1. The ~~department~~ *commissioner* shall prescribe rules and regulations for operation of all motor carriers, including their facilities, accounts, service, safety of operations and equipment, maximum hours of service of drivers, installation of safety devices and proper automatic speed regulators if, in the opinion of the ~~department~~ *commissioner*, there is a necessity therefor. ~~‡ The commissioner shall direct the repair and reconstruction or replacement of any inadequate or unsafe motor carrier vehicle or facility. The commissioner may require the construction and maintenance or furnishing of suitable and proper freight terminals, passenger depots, waiting rooms and accommodations or shelters in any city in this state or at any point on the highway traversed which the commissioner, after investigation by the department, may deem just and proper for the protection of passengers or property. ‡ The commissioner shall require the filing of annual and other reports including annual accounts of motor carriers, schedules of rates and charges or other data by such motor carriers, regulate such motor carriers in all matters affecting the relationship between them and the traveling and shipping public and prescribe such other rules and regulations as may be necessary to carry out the provisions of this chapter; provided, however, that any motor carrier having gross revenues from all for-hire transportation in any calendar year of less than \$15,000 may, at the discretion of the department commissioner, be exempted from the filing of an annual report, if in lieu thereof such motor carrier files~~

an affidavit, in such form as may be prescribed by the ~~department~~ *commissioner*, attesting that said gross revenues have not exceeded \$15,000 in the previous calendar year. Motor carrier gross revenues from for-hire transportation, for the purposes of this subdivision only, shall not include gross revenues received from the operation of school buses as defined in Minnesota Statutes 1967, Section 169.01, Subdivision 6. *The commissioner shall make no rules relating to rates or tariffs, or the granting, limiting or modifying of permits or certificates of convenience and necessity, which powers are granted to the commission pursuant to this act.* The ~~department~~ *commission* may extend the termini of any route or alter or change the route of any regular route common carrier upon petition and after finding that public convenience and necessity require such extension, alteration or change.

Sec. 72. Minnesota Statutes 1974, Section 221.041, is amended to read:

221.041 [RATE-MAKING POWERS.] *Subdivision 1.* The ~~department~~ *commission*, shall fix and establish just, reasonable and non-discriminatory rates, fares, charges, and the rules and classifications incident to tariffs for all regular route common carriers and petroleum carriers. In prescribing such rates, fares, charges, classifications and rules for the carrying of freight, persons or property, the ~~department~~ *commission* shall take into consideration the effect of the proposed rates or fares upon the users of the service and upon competitive carriers by motor vehicle and rail and, insofar as possible, avoid rates and fares which will result in unreasonable and destructive competition. In making its determination, the ~~department~~ *commission* shall consider, among other things, the cost of the service rendered by the carrier, including an adequate sum for maintenance and depreciation, and an adequate operating ratio under honest, economical and efficient management. No such rate or fares shall be put into effect or changed or altered except upon hearing duly had and an order therefor by the ~~department~~ *commission*, or except as herein otherwise provided. The ~~department~~ *commission* may authorize such changes ex parte which, in its opinion, are not of sufficient import to require a hearing. In any emergency, the ~~department~~ *commission* may order a change in existing rates or fares without a hearing. In instances of such ex parte or emergency orders, the ~~department~~ *commission* shall, within five (5) days, serve a copy of its order granting such change in rates upon all parties which the ~~department~~ *commission* deems interested in the matter, including all competing carriers. Any interested party shall have 30 days from the date of the issuance of the order to object to the order. If objection is made, the matter shall be set down for hearing with notice to competing carriers.

Subd. 2. No regular route common carrier or petroleum carrier shall charge or receive a greater or less or different compensation for the transportation of passengers or property or for any service in connection therewith than the rates, fares and charges and the rules and classifications governing the same which have been duly approved therefor by order of the ~~department~~ *commission*; nor shall any regular route common carrier or petroleum carrier refund

or remit in any manner or by any device any portion of such rates, fares and charges required to be collected under the ~~department's~~ *commission's* order; nor extend to any shipper or person any privilege or facilities in connection with the transportation of passengers or property except such as are authorized under the order of the ~~department~~ *commission*. No passenger carrying regular route common carrier shall alter or change its time schedules except upon order of the ~~department~~ *commission*. Such order may be issued ex parte unless the ~~department~~ *commission* shall decide that public interest requires that a hearing be had thereon.

Sec. 73. Minnesota Statutes 1974, Section 221.051, is amended to read:

221.051 [ABANDONMENT OR DISCONTINUANCE OF SERVICE.] No regular route common carrier shall abandon or discontinue any service required under its certificate without an order of the ~~department~~ *commission* therefor, except in cases of emergency or conditions beyond its control.

A passenger regular route common carrier may depart from the route over which it is authorized to operate for the purpose of transporting chartered or excursion parties to any point in the state of Minnesota on such terms and conditions as the ~~department~~ *commission* may prescribe.

Sec. 74. Minnesota Statutes, 1975 Supplement, Section 221.061, is amended to read:

221.061 [OPERATION CERTIFICATE FOR REGULAR ROUTE COMMON CARRIER OR PETROLEUM CARRIER.] Any person desiring a certificate authorizing operation as a regular route common carrier or petroleum carrier, or an extension of or amendment to such certificate, shall file a petition therefor with the ~~department~~ *commission*, which *petition* shall contain such information as the ~~department~~ *may, commission* by rule or *regulation, may* prescribe.

Upon the filing of a petition for a certificate, the petitioner shall pay into the state treasury as a fee for the issuance thereof the sum of \$75 and for any transfer or lease of such certificate the sum of \$37.50.

The petition shall be processed as any other petition ~~and~~. The ~~department~~ *commission* shall cause a copy and a notice of hearing thereon to be served upon any competing carrier operating into any city located on the proposed route of the petitioner and to such other persons or bodies politic which the ~~department~~ *commission* deems interested in the petition. Such competing carrier and other persons or bodies politic are hereby declared to be interested parties to the proceedings.

If, during the hearing, an amendment to the petition is proposed which appears to be in the public interest, the ~~department~~ *commission* may allow the same when the issues and the territory are not unduly broadened by the amendment.

Sec. 75. Minnesota Statutes, 1975 Supplement, Section 221.071, is amended to read:

221.071 [ISSUANCE OF CERTIFICATE TO REGULAR ROUTE COMMON CARRIER OR PETROLEUM CARRIER.] If the ~~department~~ *shall find commission finds* from the evidence that the petitioner is fit and able to properly perform the services proposed and that public convenience and necessity requires the granting of the petition or any part thereof, *it shall issue a certificate therefor shall be issued of public convenience and necessity to the petitioner*. In determining whether a certificate should be issued, the ~~department~~ *commission* shall give primary consideration to the interests of the public that might be affected thereby, to the transportation service being furnished by any railroad which may be affected by the granting of the certificate and to the effect which the granting of the certificate will have upon other transportation service essential to the communities which might be affected by the granting of the certificate. The ~~department~~ *commission* may issue a certificate as applied for or issue it for a part only of the authority sought and may attach to the authority granted such terms and conditions as in its judgment public convenience and necessity may require.

The ~~department~~ *commission* may grant a temporary certificate, ex parte, valid for a period not exceeding six (6) months, upon a showing that no regular route common carrier is then authorized to serve on the route sought ~~where~~, *that* there is no other petition on file with the ~~department~~ *commission* covering said route and ~~it appears~~ that there is need for the proposed service.

A certificate which has been issued to a regular route common carrier may be amended by the ~~department~~ *commission* on ex parte petition and *payment of* a fee of \$25 so as to grant an additional or alternate route where there is no other means of transportation over such proposed additional route or between the termini thereon, and such proposed additional route does not exceed ten (10) miles in length.

Sec. 76. Minnesota Statutes 1974, Section 221.081, is amended to read:

221.081 [SALE OR LEASE OF CERTIFICATE OF REGULAR ROUTE COMMON CARRIER OR PETROLEUM CARRIER.] Certificates authorizing operations as a regular route common carrier or as a petroleum carrier may be sold or leased but only upon order of the ~~department~~ *commission* approving the same. The proposed seller and buyer or lessor and lessee of a certificate shall file a joint petition with the ~~department~~ *commission*, setting forth the names and addresses of the parties, the identifying number of the certificate and the description of the authority which the parties seek to sell or lease, a short statement of the reasons for the proposed sale or lease, a short statement of the buyer or lessee's present operating authority, if any, a statement of all outstanding claims of creditors which are directly attributable to the operations conducted under said certificate, a copy of the contract of sale or lease and a financial statement with balance sheet and income statement, if existent, of the buyer. If it appears to the ~~department~~ *commission* from the contents

of the petition and from the department's records and, files *and investigation of the petition* that the approval of the sale or lease of the certificate will not adversely affect the rights of the users of the service and will not have an adverse effect on any other motor carrier, the *department commission* may make an ex parte order granting the same. When the proposed sale or lease is between persons who are direct competitors to a material degree, the petition shall be set down for hearing with notice to the communities which may be affected by the proposed merger and to any other persons the *commission or department* deems to be interested parties.

Sec. 77. Minnesota Statutes 1974, Section 221.091, is amended to read:

221.091 [LIMITATIONS.] No provision in sections 221.011 to 221.291 shall authorize the use by any carrier of any public highway in any city of the first class ; ~~whether organized under the constitution of the state of Minnesota, Article IV, Section 36, or otherwise,~~ in violation of any charter provision or ordinance of such city in effect January 1, 1925, unless and except as such charter provisions or ordinance may be repealed after that date; nor shall sections 221.011 to 221.291 be construed as in any manner taking from or curtailing the right of any city to reasonably regulate or control the routing, parking, speed or the safety of operation of a motor vehicle operated by any carrier under the terms of sections 221.011 to 221.291, or the general police power of any such city over its highways; nor shall sections 221.011 to 221.291 be construed as abrogating any provision of the charter of any such city ~~now organized and operating under said article IV, section 36,~~ requiring certain conditions to be complied with before such carrier can use the highways of such city and such rights and powers herein stated are hereby expressly reserved and granted to such city; but no city shall prohibit or deny the use of the public highways within its territorial boundaries by any such carrier for transportation of passengers or property received within its boundaries to destinations beyond such boundaries, or for transportation of passengers or property from points beyond such boundaries to destinations within the same, or for transportation of passengers or property from points beyond such boundaries through such municipality to points beyond the boundaries of such municipality, where such operation is pursuant to a certificate of convenience and necessity issued by the *department commission* .

Sec. 78. Minnesota Statutes 1974, Section 221.101, is amended to read:

221.101 [ADDITIONAL AUTHORITY TO PETROLEUM CARRIERS.] In addition to the specific authority granted to petroleum carriers, every petroleum carrier holding a certificate as such may transport petroleum products from an origin point he is not authorized to serve when the needs of the shippers he serves because of seasonal failure of supplies require service from such origin point, upon securing permission from the *department*

commission , provided that this provision shall not include the right to enlarge the carrier's destination area.

Sec. 79. Minnesota Statutes 1974, Section 221.111, is amended to read:

221.111 [PERMITS TO OTHER MOTOR CARRIERS.] All motor carriers other than the regular route common carriers and petroleum carriers shall obtain a permit from the department of public service in accordance with section 221.121 , including irregular route, livestock, contract and charter carriers, and regular route common carriers and petroleum carriers engaged exclusively in interstate transportation.

Sec. 80. Minnesota Statutes, 1975 Supplement, Section 221.121, is amended to read:

221.121 [PETITION; HEARING; ISSUANCE; RENEWAL.] Subdivision 1. [PERMIT CARRIERS.] Any person desiring to operate hereunder as a permit carrier, except as a livestock carrier, shall file a petition with the department commission specifying the kind of permit desired, the name and address of the petitioner, and the names and addresses of the officers, if a corporation, and such other information as the department commission may require. The department commission , after notice to interested parties and a hearing, shall issue the permit upon compliance with all laws and regulations relating thereto, if it finds that petitioner is fit and able to conduct the proposed operations, that petitioner's vehicles meet the safety standards established by the department, that the area to be served has a need for the transportation services requested in the petition, and that existing permit and certificated carriers in the area to be served have failed to demonstrate that they offer sufficient transportation services to meet fully and adequately such needs, provided that no person who holds a permit at the time sections 221.011 to 221.291 take effect shall be denied a renewal thereof upon compliance with other provisions of sections 221.011 to 221.291. A permit once granted shall continue in full force and effect until abandoned or unless suspended or revoked, subject to compliance by the permit holder with all applicable provisions of law and the rules of the department commissioner or commission governing permit carriers. No permit shall be issued to any common carrier by rail, whereby said common carrier will be permitted to operate trucks for hire within this state, nor shall any common carrier by rail be permitted to own, lease, operate, control or have any interest in any permit carrier by truck, either by stock ownership or otherwise, directly, indirectly, through any holding company, or by stockholders or directors in common, or in any other manner. Nothing in sections 221.011 to 221.291 shall prevent the department commission from issuing a permit to a common carrier by rail, whereby such carrier will be given authority to operate trucks wholly within the limits of any municipality or within adjacent or contiguous municipalities or a common rate point served by said railroad and which service shall only be a service supplementary to the rail service now established by such carriers.

The department commission may grant a temporary permit, ex

parte, valid for a period not exceeding six months upon a showing there is an immediate and urgent need for the proposed service, pending prompt action by the permit holder to follow regular procedure in securing the permit, and that such immediate and urgent authority from the ~~department~~ *commission* is in the public interest. A copy of the order granting such temporary permit, ex parte, shall be mailed immediately to interested parties.

The ~~department~~ *commission* may issue a permit as a contract carrier to such cooperative associations as are described in section 221.011, subdivision 9, notwithstanding the number of its hauling contracts, and provided that such contract carrier shall be permitted to haul its own property.

Subd. 2. [EXTENSIONS OF AUTHORITY.] The ~~department~~ *commission* may grant extensions of authority ex parte after due notice of a petition has been published. Any party desiring to protest the petition must file its protest by mail or in person within 20 days of the date of notice. If a timely filed protest is received, the matter shall be placed on the calendar for hearing. If a timely protest is not received, the ~~department~~ *commission* may issue its order ex parte.

Subd. 3. [LIVESTOCK CARRIERS.] Any person desiring to operate hereunder as a livestock carrier shall file a petition with the ~~department~~ *commission* specifying the kind of permit desired, the name and address of the petitioner, and the names and addresses of the officers, if a corporation, and such other information as the ~~department~~ *commission* may require.

The ~~department~~ *commission* shall issue the permit upon compliance with all laws and regulations relating thereto unless it finds that petitioner's vehicles do not meet the safety standards ~~set up~~ *prescribed* by the ~~department~~ *commission* or that petitioner is not fit and able to conduct the proposed operations. All permits issued hereunder shall be renewed upon compliance with the provisions of this act and the rules of the ~~department~~ *commission*.

Sec. 81. Minnesota Statutes, 1975 Supplement, Section 221.131, is amended to read:

221.131 [PERMITS; TERMS, FEES, IDENTIFICATION CARDS.] Permits issued pursuant to the provisions of sections 221.011 to 221.291 shall be effective for a 12-month period, commencing on the first day of the month of their issuance and shall continue from year to year thereafter upon payment of the required registration fee and compliance otherwise with law. The permit holder shall pay into the treasury of the state of Minnesota a fee of \$25 for each kind of permit, reinstatement, or extension of authority thereof for which a petition is filed, except on annual renewal, pursuant to section 221.121 and a registration fee of \$20 on each vehicle, including pickup and delivery vehicles, operated by him under authority of such permit during said 12-month period or fraction thereof. Trailers used by petitioner in combination with power units shall not be counted as vehicles in the computation of fees under this section, provided

petitioner pays the fees for such power units. The ~~department~~ *commissioner* shall furnish a distinguishing identification card for each vehicle or power unit for which a fee has been paid, which identification card shall at all times be carried in the vehicle or power unit to which it has been assigned. Identification cards may be reassigned to another vehicle or power unit without fee by the ~~department~~ *commissioner* upon petition of the permit holder. Identification cards issued under the provisions of this section shall be good only for the period for which the permit is effective. The name and residence of the permit holder shall be stenciled or otherwise shown on both sides of each registered vehicle operated under his permit. In the event a permit has been suspended or revoked, the ~~department~~ *commission* may consider a petition for reinstatement thereof, upon the same procedure required for an original petition, and may, in its discretion, grant or deny the same. Regular route common carriers and petroleum carriers, operating under sections 221.011 to 221.291, shall annually on or before January 1 of each calendar year, pay into the treasury of the state of Minnesota an annual registration fee of \$20 for each vehicle, including pickup and delivery vehicles, operated during any calendar year.

A fee of \$3 shall be charged for the replacement of an unexpired identification card which has been lost or damaged by the owner.

The provisions of this section are limited by the provisions of any applicable federal law.

Sec. 82. Minnesota Statutes, 1975 Supplement, Section 221.141, is amended to read:

221.141 [INSURANCE OR BONDS OF MOTOR CARRIERS.] Subdivision 1. Before any certificate or permit shall be issued to any motor carrier, it shall secure and file with the ~~department~~ *commissioner* and keep the same at all times in full effect public liability and indemnity insurance in such amount and in such form as the ~~department~~ *commissioner* shall have prescribed, covering injuries and damage to persons or property occurring on the highways, other than the employees of such motor carrier or the property being transported by such carrier, provided that the ~~department~~ *commissioner* shall require cargo insurance for certificated carriers, except those carrying passengers exclusively, and may require any permit carrier to file such insurance when it deems necessary to protect the users of the service. Such insurance shall be subject to cancellation for nonpayment of premiums or withdrawals from service of a vehicle or vehicles covered thereby upon not less than 30 days' written notice to the insured and to the ~~department~~ *commissioner*. Such insurance or bond may from time to time be reduced or increased by order of the ~~department~~ *commissioner*. The ~~department~~ *commissioner* may, if desired by the petitioner, prescribe in lieu of the bond or insurance such other form of security as may be satisfactory. Failure to maintain any required insurance or security shall void the permit or certificate.

Subd. 2. Notwithstanding the contrary provisions of subdivision 1, if a permit carrier having grandfather rights transfers the same to another and the transferee defaults on his contract and has had a permit voided subsequent to January 1, 1965, solely by reason of failure to keep in effect insurance or other security as required by this section, the permit carrier, being the transferor in the transaction, shall have his permit fully reinstated by the ~~department~~ *commissioner*, together with all operating authority granted theretofore, upon his filing with the ~~department~~ *commissioner*, within 15 days after the effective date of this act, public liability and indemnity insurance or bond in the amount and form as the ~~department~~ *commissioner* prescribes.

Sec. 83. Minnesota Statutes, 1975 Supplement, Section 221.151, is amended to read:

221.151 [PERMITS ASSIGNABLE OR TRANSFERABLE.] Subdivision 1. Permits, except livestock permits, issued under the provisions of sections 221.011 to 221.291 may be assigned or transferred but only upon the order of the ~~department~~ *commission* approving same after notice and hearing.

The proposed seller and buyer or lessor and lessee of a permit, except for livestock carrier permits, shall file a joint notarized petition with the ~~department~~ *commission* setting forth the name and address of the parties, the identifying number of the permit and the description of the authority which the parties seek to sell or lease, a short statement of the reasons for the proposed sale or lease, a statement of all outstanding claims of creditors which are directly attributable to the operation to be conducted under said permit, a copy of the contract of sale or lease and financial statement with balance sheet and income statement, if existent, of the buyer or lessee. If it appears to the ~~department~~ *commission*, after notice to interested parties and a hearing, from the contents of the petition, from the evidence produced at the hearing, and the department's records and , files and investigation that the approval of the sale or lease of the permit will not adversely affect the rights of the users of the service and will not have an adverse effect upon any other competing carriers, the ~~department~~ *commission* may make an order granting same. Provided, however, that the ~~department~~ *commission* shall make no order granting the sale or lease of a permit to any person or corporation or association which holds any certificate or permit from the ~~department~~ *commission* pursuant to chapter 221 or to any common carrier by rail.

Provided further that the ~~department~~ *commission* shall make no order approving the sale or lease of a permit if the ~~department~~ *commissioner* finds that the price paid for such sale or lease of a permit is disproportionate to the reasonable value of said permit considering all assets and good will involved. The ~~department~~ *commission* shall approve the sale or lease of a permit only after a finding that the transferee is fit and able to conduct the operations authorized under said permit and that the vehicles he proposes to use in conducting such operations meet the safety standards of the ~~department~~ *commission*. In determining the extent of the operating authority to be conducted by the transferee under the sale or lease of the permit, the past operations of the transferor

within the two year period immediately preceding the transfer shall be considered and only such operating authority shall be granted to the transferee as was actually exercised by the transferor under his authority within the two year period immediately preceding the transfer as evidenced by bills of lading, company records, operation records or other relevant evidence.

If any authority to operate as a permit carrier is held by a corporation, any sale, assignment, pledge or other transfer of such stock interest in the corporation which will accomplish a substantial or material change or transfer of the majority ownership of said corporation, as exercised through its stockholders, shall be reported in the manner prescribed in accordance with the rules and regulations of the ~~department~~ *commission* within 90 days after said sale, assignment, pledge or other transfer of stock. The ~~department~~ *commission* shall then make a finding whether or not said stock transfer does, in fact, constitute a sale, lease or other transfer of the permit of said corporation to a new party or parties and, if they so find, then the continuance of the permit issued to said corporation shall only be upon the corporation's complying with the standards and procedures otherwise imposed by this section.

Subd. 2. The ~~department~~ *commission* shall allow a bona fide transfer of a permit, except a livestock carrier permit, ex parte without hearing where the transferee of said permit is in fact a member or members of the transferor's immediate family. For the purpose of this subdivision immediate family shall consist only of the lawful spouse, adult child or children, brother or sister of the transferor. Provided further that the immediate family as defined in this subdivision shall not include any person under legal disability or any member of the family regardless of relationship who holds any other permit or certificate pursuant to chapter 221 either as an individual or in partnership or as owner of an interest in a corporation holding a permit or a certificate pursuant to chapter 221.

Provided further that the transfer pursuant to this subdivision shall include:

(1) transfer to a corporation the stock of which is wholly owned by the transferor or the members of his immediate family;

(2) transfer to a partnership or partner consisting solely of the immediate family as defined in this subdivision.

Provided further that said transfer of permit, pursuant to this subdivision, shall comply with the standards set forth in this section based upon the contents of the petition of petitioners, all pertinent information available to the ~~department~~ and the ~~department's~~ *commission* and the ~~department~~ and their records and files. No determination of the extent of the operating authority previously exercised shall be required.

If it appears to the ~~department~~ *commission* that said petition and exhibits do not reasonably comply with the standards set

forth in this section, then after notice to interested parties and the petitioners, the ~~department~~ *commission* shall set the matter down for hearing to determine compliance with this section. Any user of the service, competing carrier or interested party shall have the right to file a protest on such transfer as is provided for in this subdivision by filing a sworn statement with the ~~department~~ *commission* within six months from the effective date of said transfer whereupon ~~the department~~ *the commission* shall set the matter down for hearing and the continuance of the permit shall only be upon the transferee's compliance with the standards and procedures otherwise imposed by this section.

Sec. 84. Minnesota Statutes 1974, Section 221.161, is amended to read:

221.161 [SCHEDULE OF RATES AND CHARGES.] Subdivision 1. Every permit carrier including a livestock carrier shall file and maintain with the ~~department~~ *commissioner* a schedule of rates and charges for the transportation of persons or property. The filing with and acceptance by the ~~department~~ *commissioner* of such tariffs, in accordance with ~~its~~ *the* rules and regulations of *relating* to such schedules, shall constitute notice to the public and all interested parties of the contents of such tariffs. All schedules shall be prepared and filed in accordance with the rules and regulations of the ~~department~~ *commissioner*. The ~~department~~ *commissioner* shall not accept for filing schedules which are unjust and unreasonable or unjustly discriminatory or unduly preferential or prejudicial or otherwise in violation of the provisions of this section. If such schedules appear to be unjust or unreasonable or unjustly discriminatory or unduly preferential or prejudicial or otherwise in violation of this section, the ~~department~~ *commission after notification and investigation by the department* may suspend and postpone the effective date of such schedules and assign said schedules for hearing upon notice to the permit carrier filing such proposed schedules and to other interested parties, including users of the service and competitive carriers by motor vehicle and rail. At any such hearing, the burden of proof shall be upon the permit carrier filing the proposed schedule of rates and charges to sustain the validity of the proposed schedule of rates and charges. Schedules of rates and charges for the transportation of livestock shall not be subject to rejection, suspension, or postponement ~~or investigation~~ by the ~~department~~ *as is provided for other schedules of rates and charges commission*, except as is provided in subdivisions 2 and 3. Such tariffs and subsequent supplements thereto or re-issues thereof shall state the effective date thereof, which shall be not less than ten days subsequent to the date of filing, unless such period of time be reduced by special permission of the ~~department~~ *commission*.

Subd. 2. Such tariffs, supplements and re-issues shall be prepared and filed in accordance with rules and regulations to be

promulgated by the ~~department~~ *commissioner*, and any rates or charges including pickup charges named therein shall be subject to complaint to the ~~department~~ *commission* by any interested party, whereupon the ~~department~~ *commission after investigation by the department* by order on not less than ten days' notice may set such complaint for hearing, and if at such hearing the complainant submits facts and evidence sufficient to establish proof that such rates or charges complained of are excessive or noncompensatory, the ~~department~~ *commission* may order such rates or charges canceled, and require the filing of alternative and reasonable rates and charges, the reasonable level of which at such time shall be indicated by the ~~department~~ *commission* in such order.

Subd. 3. Upon the filing of any tariff or subsequent supplement thereto or re-issue thereof, any other carrier shall have the right to petition the ~~department~~ *commission* to suspend the taking effect of the same until opportunity has been had for a hearing on the reasonableness of the rates or charges named therein, as herein provided, and the ~~department~~ *commission* may so suspend if in its judgment the rates or charges complained of are so unreasonably low as to create destructive competitive practices among or jeopardize the economic position of competing carriers. In determining whether the rates or charges are excessive or noncompensatory the ~~department~~ *commission* shall include in its consideration, among other things, the reasonable cost of the services rendered for such transportation, including a reasonable return on the money invested in the business and an adequate sum for maintenance and depreciation of the property used.

Subd. 4. The ~~department~~ *commission* after a suspension and hearing upon a schedule of rates and charges or upon complaint or upon its own initiative, either in extension of any existing complaint or without any complaint whatever, *after department investigation and petition*, and upon notice to the permit carrier or permit carriers proposing a schedule of rates and charges on any single group of related commodities and to the users of the service and competitive carriers by motor vehicle and rail may set down for hearing said schedule of rates and charges maintained or charged by any or all permit carriers; and, upon a finding, after a hearing, that such schedule of rates and charges are unjust or unreasonable or unjustly discriminatory or unduly preferential or prejudicial or otherwise in violation of any of the provisions of this section, the ~~department~~ *commission* may prescribe minimum rates and charges and the rates, rules and practices thereafter to be maintained and applied by such permit carrier or permit carriers. In any such hearing the burden of proof shall be upon the permit carrier or permit carriers whose schedules of rates and charges are under investigation to show that said schedules are not below a minimum reasonable level or are not noncompensatory. Schedules of rates and charges for the transportation of livestock shall not be subject to rejection, suspension, postponement or investigation by the ~~department~~ as is provided for other schedules of rates and charges; *commissioner* except as is provided in subdivisions 2 and 3.

Sec. 85. Minnesota Statutes 1974, Section 221.171, is amended to read:

221.171 [COMPENSATION OF PERMIT CARRIERS FIXED BY SCHEDULES OF RATES AND CHARGES.] No permit carrier shall charge or receive a greater or less or different compensation for the transportation of persons or property or for any service in connection therewith, than the rates and charges named in the carrier's schedule on file and in effect with the ~~department~~ *commissioner* including any rate fixed by the ~~department~~ *commission* under the provisions of section 221.161; nor shall any permit carrier refund or remit in any manner or by any device, directly or indirectly, the rates and charges required to be collected by him under his schedules or under the rates, if any, fixed by the ~~department~~ *commission*.

Sec. 86. Minnesota Statutes 1974, Section 221.181, is amended to read:

221.181 [INTERSTATE CARRIERS; PERMITS, REGULATION.] The ~~department~~ *commissioner or commission*, consistent with their respective powers pursuant to this chapter, shall have the power and authority to grant permits to interstate carriers and to supervise and regulate their operations to the extent that such supervision and regulation constitutes a valid exercise of the police powers of the state.

The issuance, renewal and cancellation of permits to interstate carriers shall follow the same procedure and be based upon the same conditions as herein provided for other permit carriers.

Sec. 87. Minnesota Statutes 1974, Section 221.201, is amended to read:

221.201 [PETITION FOR EXCEPTION.] Any person operating a commercial motor vehicle may apply to the ~~department~~ *commissioner* for an exemption from the restriction imposed by section 221.191. The petition shall set forth good and sufficient reasons why his operation over the highways during the restricted hours constitutes an emergency or necessity justifying exemption. The ~~department~~ *commissioner* shall have the power to issue or refuse to issue the exemption applied for.

Sec. 88. Minnesota Statutes, 1975 Supplement, Section 221.221, is amended to read:

221.221 [ENFORCEMENT POWERS.] Transportation representatives of the department for the purpose of enforcing the provisions of sections 221.011 to 221.291 and the rules and regulations of the ~~department~~ *commissioner and commission* issued pursuant hereto, but for no other purpose, shall have all the powers conferred by law upon police officers. The powers shall include the authority to conduct inspections at designated highway weigh stations, or during stops authorized under section 221.211 or under other appropriate circumstances anywhere within the state for the purpose of viewing log books, chauffeur licenses, health certificates and other documents or equipment required to be maintained within commercial motor vehicles operating in Minnesota pursuant to applicable state motor vehicle carrier laws and regulations. Every ~~transportation representative,~~

before entering upon his duties, shall take and subscribe an oath of office and furnish a bond to the state in the sum of \$2,000, conditioned as provided by section 387.01, to be approved by and filed in the office of the secretary of state.

Sec. 89. Minnesota Statutes 1974, Section 221.231, is amended to read:

221.231 [RECIPROCAL AGREEMENTS.] The department is hereby empowered to ~~commissioner~~ may enter into reciprocal agreements with the regulatory bodies of other states and the provinces of the dominion of Canada, whereby the payment of the vehicle fee provided in section 221.131 hereof may be waived in whole or in part as to residents of or corporations or partnerships having an established place of business in the state or province, entering into the reciprocal agreement with the ~~department commissioner~~, provided that reciprocal privileges are extended under such agreement to residents of this state and to corporations or partnerships who have an established place of business in this state.

Sec. 90. Minnesota Statutes 1974, Section 221.261, is amended to read:

221.261 [COMPLAINTS, ACTION IN DISTRICT COURT.] An action or proceeding may be instituted, upon verified complaint of the ~~department commissioner~~ or any interested person in any district court of any county wherein a motor carrier has a principal office or into which its route extends, for the enforcement of any provision of sections 221.011 to 221.291, or any order, rule or directive of the ~~department commissioner or commission~~ herein authorized, and the court may grant provisional or other relief, ordinary or extraordinary, legal or equitable, which the nature of the case may require, including temporary mandatory or restraining orders. Except when there is a constitutional right to trial by jury not expressly waived, all such proceedings shall be tried summarily by the court and such matters shall take precedent over all other matters except criminal cases.

Sec. 91. Minnesota Statutes 1974, Section 221.271, is amended to read:

221.271 [MOTOR CARRIERS, LIABILITY.] Any motor carrier which shall do or cause to be done any unlawful act as herein provided, or fail to perform any duty prescribed, or violate any duly establishing order, rule or directive of the ~~department commissioner or commission~~, or which shall aid or abet in the performance of any unlawful act or in the failure to perform any such duty, shall be liable in damages to any person injured thereby, and such person, if he recovers, shall be allowed, in addition to damages, reasonable attorneys' fees, together with costs and disbursements.

Sec. 92. Minnesota Statutes 1974, Section 221.281, is amended to read:

221.281 [VIOLATIONS, PENALTIES.] Any regular route common carrier or petroleum carrier, or any officer, agent or employee of any such carrier, failing to comply with any final order, decision, rule, regulation or directive, or any part or provision thereof, of the ~~department commissioner or commission~~, or any provision of sections 221.011 to 221.296, shall be subject to a penalty of \$50 for each and every day of such failure, to be recovered for the state in a civil action brought by the ~~department commissioner~~. Any such carrier granting any special rate, rebate, drawback, or directly or indirectly charging, demanding, or collecting a greater or less compensation than provided by its regular established schedule of rates and charges, shall be punished by a fine not exceeding \$5,000 for each such offense.

Sec. 93. Minnesota Statutes, 1975 Supplement, Section 221.291, is amended to read:

221.291 [MISDEMEANORS, OFFENSES.] Subdivision 1. Any person who commits, procures, aids or abets or conspires to commit, or attempts to commit, aid or abet in the violation of any provision of chapter 221 or any valid order of rule of the ~~department commissioner or commission~~ issued hereunder, whether individually or in connection with one or other more persons or as principal, agent, or accessory, shall be guilty of a misdemeanor, and every person who falsely, fraudulently, forcibly, or willfully induces, causes, coerces, requires, permits or directs another to violate any provision of this chapter, is likewise guilty of a misdemeanor. Every district violation shall be a separate offense.

Subd. 2. Any person employing or otherwise directing the driver of any vehicle to require or knowingly to permit the operation of the vehicle upon a highway in any manner contrary to chapter 221 is guilty of a misdemeanor.

Sec. 94. Minnesota Statutes, 1975 Supplement, Section 221.293, is amended to read:

221.293 [VIOLATIONS; COMPLAINT, HEARING, CEASE AND DESIST ORDERS.] Where any provisions of this chapter or any order adopted thereunder or any rule of the ~~department commissioner or commission~~ has been violated, the ~~department commissioner~~ upon complaint being filed with it ~~him~~ or on its ~~his~~ own motion, may issue and serve upon the person engaged in such violation, a complaint stating the charges in that respect, and containing a notice of a hearing upon a day and at a place therein fixed at least ten days after the service of the complaint and notice requiring the person so complained of to appear at the time and place fixed in the notice of hearing and show cause why an order should not be entered by the ~~department commissioner~~ requiring such person to cease and desist from the violation alleged. If upon such hearing the ~~department commissioner~~ shall find that any of the violations alleged in the order to show cause are true, it ~~he~~ shall so find and shall issue and cause to be served upon such person an order requiring such person to cease and desist from such violation. The district court, upon petition, may enforce

such cease and desist order by injunction or other appropriate writ or proceedings.

Sec. 95. Minnesota Statutes 1974, Section 221.295, is amended to read:

221.295 [NOTICE TO METROPOLITAN TRANSIT COMMISSION.] Notwithstanding any provision of any statute to the contrary, the metropolitan transit commission shall be notified by the ~~public service commission~~ *commissioner* of any matter pertaining to or affecting public transit or an existing or proposed transit system within the Twin Cities metropolitan transit area, which matter is formally or informally before the ~~public service commission~~ *commissioner or commission* for action or which is under study, including the initiation of any request for action or study and prior to any hearings on other proceedings, whether ex parte or otherwise. Further, such notification shall in all cases be given in a manner, at such time, and with such information and data available to the ~~public service commission~~ *commissioner or commission* so as to enable the metropolitan transit commission to meaningfully evaluate, participate in, and comment upon the matter. The ~~public service commission~~ *commissioner or commission* shall not approve, deny, or otherwise attempt to resolve or act upon any such matter until receipt of the comments and advice of the metropolitan transit commission with respect thereto, but if none are received ~~it~~ *they* may act within 30 days after demand therefor upon the metropolitan transit commission, or otherwise by mutual agreement. If the ~~public service commission~~ *commissioner or commission* takes action in any way contrary to or different from the comments and advice of the metropolitan transit commission, ~~it~~ *they* shall specifically state the reasons and factual data for such action.

Sec. 96. Minnesota Statutes 1974, Section 221.296, Subdivision 2, is amended to read:

Subd. 2. [RULES AND REGULATIONS FOR SAFETY AND SERVICE.] The ~~department of public service~~ *commission* shall prescribe rules ~~and regulations~~ for the operation of all local cartage carriers, including their facilities, accounts, service, safety of operation and equipment, maximum hours of service of drivers, installation of safety devices and proper automatic speed regulators if, in the opinion of the ~~department~~ *commission*, there is a necessity therefor. ~~It~~ *The commission* may require the filing of annual and other reports and shall regulate such local cartage carriers in all matters affecting the relationship between them and the shipping public, and prescribe such other rules and regulations as may be necessary to carry out the provisions of this section. The ~~department~~ *commissioner* shall investigate the operation of all local cartage carriers, their compliance with all rules ~~and regulations~~ of the ~~department~~ *commissioner or commission* and with the provisions of this section and may institute and prosecute any and all actions and proceedings in the proper district court for enforcement of the same. The provisions of sections 221.161 and 221.171 do not apply to local cartage carriers. *The commissioner shall make no rules relating to rates or tariffs, or*

the granting, limiting or modifying of permits or certificates of convenience and necessity, which powers are granted to the commission pursuant to this act.

Sec. 97. Minnesota Statutes 1974, Section 221.296, Subdivision 3, is amended to read:

Subd. 3. [PERMITS REQUIRED.] No person shall operate a local cartage carrier without a permit in full force and effect with respect to such operation. The ~~department~~ *commission* may revoke or suspend the permit of any local cartage carrier after notice and hearing for violating any provision of this section or any rule or regulation of the *commission* or the department governing local cartage carriers.

Sec. 98. Minnesota Statutes, 1975 Supplement, Section 221.296, Subdivision 4, is amended to read:

Subd. 4. [PETITION FOR PERMITS.] Any person desiring to operate hereunder as a local cartage carrier shall file a petition with the ~~department~~ *commission* specifying the service offered, the name and address of the petitioner, and the names and addresses of the officers, if a corporation, and such other information as the ~~department~~ *commission* may require. The ~~department~~ *board*, after notice to interested parties and a hearing, shall issue the permit upon compliance with all laws and regulations relating thereto unless it finds that the area to be served has a sufficient number of local cartage carriers to fully and adequately meet the needs of such area or that the petitioners' vehicles do not meet the safety standards set up by the ~~department~~ *commission*, or that petitioner is not fit and able to conduct the proposed operations. A permit once granted shall continue in full force and effect until abandoned or unless suspended or revoked, subject to compliance by the permit holder with all applicable provisions of law and rules of the ~~department~~ *commission* governing local cartage carriers.

Sec. 99. Minnesota Statutes, 1975 Supplement, Section 221.296, Subdivision 5, is amended to read:

Subd. 5. [PERMIT FEES.] Upon filing of a petition for a permit the petitioner shall pay to the state treasury as a fee for the issuance thereof the sum of \$50, and shall thereafter pay an annual renewal fee of \$75 plus \$5 per motor vehicle if the local cartage carrier operates less than five motor vehicles, or \$100 plus \$5 per motor vehicle if the local cartage carrier operates at least five but less than 15 motor vehicles, or \$150 plus \$5 per motor vehicle if the local cartage carrier operates 15 or more vehicles provided that said \$5 per motor vehicle charge shall not apply to taxicabs operated pursuant to a local cartage permit. Upon issuance of the permit the ~~department~~ *commissioner* shall assign the carrier a permit number, which shall be painted or prominently displayed on both sides of all vehicles used by the local cartage carrier under authority of said permit.

Sec. 100. Minnesota Statutes 1974, Section 221.296, Subdivision 6, is amended to read:

Subd. 6. [BONDS.] Local cartage carriers shall comply with the requirements of section 221.141, and before any such permit shall be issued to a local cartage carrier or renewed, such carrier shall secure and file with the ~~department~~ *commissioner* and keep the same at all times in full effect, a third party liability bond with corporate surety in the amount of \$5,000 conditional, to pay to the owner all damages to the property being transported by such carrier and all other liabilities to the consignor or consignee arising from the transportation, including conversions of money or property; provided, however, that the aggregate liability of the surety for all breaches of the conditions of the bond shall, in no event, exceed the amount of such bond.

Sec. 101. Minnesota Statutes 1974, Section 221.296, Subdivision 7, is amended to read:

Subd. 7. [LIMITATIONS.] Nothing in this section shall be construed in any manner as taking from or curtailing the right of any city to reasonably regulate or control the routing, parking, speed or the safety of operation of any motor vehicle operated by local cartage carriers, nor the general police powers of any city of its highways, nor as abrogating any provision of the charter of any city requiring conditions to be complied with before such local cartage carrier can use the highways of such city, and such rights and powers hereby stated are reserved and granted to such city; but no city shall prohibit or deny the use of the public highways within its territorial boundaries by any local cartage carrier for the transportation of property received within its boundaries to destinations beyond such boundaries, or for the transportation of property from points beyond such boundaries to destinations within the same, or for transporting property from points beyond such boundaries through such municipality to points beyond the boundaries of such municipality, where such operation is pursuant to a permit issued by the department *pursuant to an order of the commission*.

Sec. 102. Minnesota Statutes, 1975 Supplement, Section 221.296, Subdivision 8, is amended to read:

Subd. 8. [PERMITS TRANSFERABLE.] Permits, issued under the provisions of section 221.296 may be transferred but only upon the order of the ~~department~~ *commission* approving same after notice and hearing.

The proposed seller and buyer of a permit, shall file a joint verified petition with the ~~department~~ *commission* setting forth the legal name and address of the parties, the permit number and the description of the authority which the parties seek to sell, a verified statement of the reasons for the proposed sale, a verified statement of all outstanding claims of creditors which are attributable to the business conducted under said permit, a copy of the contract of sale and financial statement with balance sheet and income statement, if existent, of the buyer and the seller. After notice to interested parties and a hearing the ~~department~~ *commission* shall not make an order approving and allowing the sale unless the ~~department~~ *commission* finds that

the buyer is fit and able to conduct the business authorized under said permit, that the vehicles he proposes to use in conducting such business meet the safety standards of the department, that the price paid for the purchase of the permit is not disproportionate to the reasonable value of the permit considering all assets and good will sold, that the proposed sale is in the best interest of the shipping public, and that the seller has legally engaged in the transportation of property or freight for hire on a meaningful basis as determined by the commission within the two year period immediately preceding the sale as proven by accurate and complete bills of lading, company records, operation records, or other relevant evidence. For purposes of determining said two year period, any divesting of interest or control shall be deemed the date of the sale and the ~~department~~ *commission* shall look to the substance of the transaction rather than the form. Any agreement for the transfer or sale of a permit shall be reported and filed with the ~~department~~ *commission* within 30 days of such agreement.

If any authority to operate as a local cartage carrier, is held by a corporation, any sale, assignment, pledge or other transfer of such stock interest in the corporation which will accomplish a substantial or material change or transfer of the majority ownership of said corporation, as exercised through its stockholders, shall be reported in the manner prescribed ~~in accordance with~~ *by* the rules and ~~regulations~~ of the ~~department~~ *commission*, within 30 days after said sale, assignment, pledge or other transfer of stock. The ~~department~~ *commission* shall then make a finding whether or not said stock transfer does, in fact, constitute a sale, or other transfer of the permit of said corporation to a new party or parties and, if they so find, then the continuance of the permit issued to said corporation shall only be upon the corporation's complying with the standards and procedures otherwise imposed by this section.

The ~~department~~ *commission* shall allow a bona fide transfer of a permit, ex parte without hearing where the transferee of said permit is in fact a member or members of the transferor's immediate family. For the purpose of this paragraph immediate family shall consist only of the lawful spouse, adult child or children, brother or sister of the transferor. A transfer pursuant to this paragraph shall include:

- (1) transfer to a corporation the stock of which is wholly owned by the transferor or the members of his immediate family.
- (2) transfer to a partnership or partner consisting solely of the immediate family as defined in this paragraph.

Sec. 103. Minnesota Statutes 1974, Section 221.55, is amended to read:

221.55 [CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY.] No person or corporation shall engage in the transportation described in section 221.54 without a certificate of public convenience and necessity from the ~~department of public service~~

of Minnesota *commission* authorizing such operation. Such certificate shall be issued by the ~~department~~ *commission* pursuant to application, notice and hearing as provided in sections 221.061 and 221.071, and the issuance of certificates and the transportation covered thereby shall be governed by the provisions of such sections and by sections 221.031, 221.041, 221.051 and 221.081, applying to auto transportation companies, insofar as such provisions are not inconsistent with sections 221.54 and 221.55.

Sec. 104. Minnesota Statutes 1974, Section 221.61, is amended to read:

221.61 [NECESSITY OF OBTAINING FEDERAL AUTHORITY; REGISTRATION OF AUTHORITY.] It shall be unlawful for any motor carrier to perform any act of transportation in interstate commerce for hire upon the public highways of this state requiring authority therefor from the interstate commerce commission pursuant to the provisions of the federal motor carrier act or any amendment thereof without having first obtained such authority and without first having registered such authority with the ~~department of public service~~ *commissioner*.

Sec. 105. Minnesota Statutes 1974, Section 221.62, is amended to read:

221.62 [EXEMPT INTERSTATE CARRIERS; REGISTRATION OF EXEMPTION AUTHORITY.] It shall be unlawful for any carrier engaged in interstate commerce exempt from seeking appropriate authority for transportation service from the interstate commerce commission, if written authority for such exemption is provided for by the interstate commerce act, to perform any transportation service for compensation upon the public highways of this state without first having registered such written authority for exemption with the ~~department of public service~~ *commissioner*.

Sec. 106. Minnesota Statutes 1974, Section 221.63, is amended to read:

221.63 [AFFIDAVIT OF EXEMPTION.] In any case where the interstate commerce act exempts any carrier engaged in interstate commerce for hire from the necessity of procuring authority for any transportation service from the interstate commerce commission and does not provide for written authority for such exemption, such exempted carrier shall file with the ~~department of public service~~ *commissioner* a sworn affidavit disclosing the fact of the exemption and specifying the nature of the commodity carried and the specific nature of the service offered before performing any such interstate transportation service for compensation upon the public highways of this state. Such affidavit shall be executed by the individual owner of the carrier, or if such carrier be a partnership, by one of the partners, or if a corporation, by an officer or managing agent thereof.

Sec. 107. Minnesota Statutes, 1975 Supplement, Section 221.64, is amended to read:

221.64 [REGISTRATION FEE; EXEMPTIONS.] Such registration as herein provided shall be granted upon petition, without

hearing, upon payment of an initial filing fee in the amount of \$25. Upon petition, and payment of said fee if applicable, the ~~department of public service commissioner~~ shall furnish to the registration holder a distinguishing identification stamp for each motor vehicle included in said registration which stamp shall at all times be carried in the registered vehicle of the registration holder. For each identification stamp issued, the ~~department commissioner~~ shall collect a fee of \$5 to be deposited in the state treasury, provided that a lesser fee may be collected pursuant to the terms of reciprocal agreements between the ~~department commissioner~~ and the regulatory bodies of other states or provinces of the dominion of Canada.

Sec. 108. Minnesota Statutes 1974, Section 221.65, is amended to read:

221.65 [RECIPROCAL AGREEMENTS.] Nothing in sections 221.61 to 221.68 shall be construed to impair the authority of the ~~department of public service commissioner~~ to enter into reciprocal agreements with the regulatory bodies of other states and the provinces of the Dominion of Canada, as provided in Minnesota Statutes 1961, Section 221.231.

For the purposes of section 221.231, the commissioner shall be deemed to be the successor of the department of public service. The commissioner may exercise any power, duty or function heretofore conferred by law or agreement upon the department of public service to the extent necessary to preserve any reciprocal agreement heretofore concluded under the provisions of section 221.231. Nothing in this section shall be construed to prevent the negotiation of new or replacement agreements as conditions and circumstances may warrant.

Sec. 109. Minnesota Statutes 1974, Section 221.66, is amended to read:

221.66 [ENFORCEMENT.] If any motor carrier operates in violation of any provision of sections 221.61 to 221.68, the ~~department of public service commissioner~~ or its ~~his~~ duly authorized agent or any carrier or other interested person may institute an action or proceeding upon verified complaint in any district court of any county wherein such motor carrier has designated a resident agent for service of process, or in the district court of Ramsey county, for enforcement of any provisions of sections 221.61 to 221.68 and enjoining upon such motor carrier obedience to sections 221.61 to 221.68. The court may grant provisional or other relief, ordinary or extraordinary, legal or equitable, which the nature of the case may require, including temporary or mandatory restraining orders or injunctions.

Sec. 110. Minnesota Statutes 1974, Section 221.68, is amended to read:

221.68 [VIOLATIONS; PENALTIES.] Any person who violates or procures, aids, or abets violation of, or fails to comply with, the provisions of sections 221.61 to 221.68 or any valid order

or rule of the ~~department of public service commissioner or commission~~ issued hereunder shall be guilty of a misdemeanor; and, additionally, shall be subject to a penalty of \$50 for each and every day of such failure to so comply, to be recovered for the state in a civil action. Each distinct violation shall be a separate offense.

Sec. 111. Minnesota Statutes 1974, Section 222.01, is amended to read:

222.01 [SALE AND LEASE OF AIR RIGHTS AFFECTING PUBLIC SERVICE CORPORATIONS.] Before any air rights over or affecting the property or easements of any railway company or other public utility company are leased, sold, acquired or used, application shall be made to the ~~department of public service commissioner of transportation~~ for permission to acquire or use such rights and . The said ~~department commissioner~~ is hereby authorized to hear said application and to determine whether or not such permission shall be granted; provided, that in all cases where said air rights are within the corporate limits of cities of the first class, said rights shall only be acquired, held or used with the consent of the common council or other governing body of such city.

Sec. 112. Minnesota Statutes 1974, Section 222.34, is amended to read:

222.34 [LAND GRANT RAILROAD COMPANIES.] Every land grant railroad company shall keep at some public office within this state the originals, or copies, of all books, papers, and records of every description relating to lands sold, contracted, encumbered, or owned by it, so as to show clearly all material matters connected with its grant and the management of its lands. Such books and papers shall be open to inspection by the commissioner of finance, ~~department of public service the commissioner of transportation~~ , or any agent appointed by the governor for that purpose. Every such corporation failing to comply with the provisions of this section and section 222.33 shall forfeit to the state \$500 for each month it shall fail to maintain the offices specified therein or either of them. Proceedings to recover such forfeiture shall be prosecuted by the attorney general in the name of the state.

Sec. 113. Minnesota Statutes 1974, Section 222.38, is amended to read:

222.38 [IN CITIES OF FIRST CLASS; POWERS AND DUTIES.] In every city of this state, now or hereafter having a population exceeding 50,000, into or through which two or more commercial steam railways may pass, and in which each or two or more of such commercial steam railways may maintain separate and independent passenger stations at different points within such city, or in which the union passenger depot facilities furnished and provided by such railways are insufficient and inadequate to meet the needs and comfort, or insure the safety, health, and convenience of the traveling public, a body corporate may be formed for the purpose of supplying the means

and doing the work necessary to acquire sufficient lands, and of erecting, constructing, and maintaining a union passenger depot, so situated, as to location, and of such dimensions, and so equipped, as to adequately meet all the reasonable requirements of passengers entering or departing from such city over any of such commercial steam railways.

Any such corporation, when organized pursuant to the power hereby granted, shall possess all the rights, powers and privileges, and be subject to all the duties and liabilities of railway corporations under the laws of this state, and shall also be subject to the regulation and control of the ~~department of public service commissioner of transportation~~ as provided in sections 222.39 to 222.45.

Sec. 114. Minnesota Statutes 1974, Section 222.40, is amended to read:

222.40 [MAPS, PLATS, AND DRAWINGS; DUTIES OF COMMISSIONER.] When a corporation has been organized by complying with the foregoing provisions it shall, within three months thereafter cause to be filed with the ~~department~~ *commissioner of transportation* maps, plats, and drawings showing the real property to be taken by said corporation for its use, also the location, dimensions, and general plans of the building, sheds, tracks, and approaches to be built by said corporation on the lands so designated. The ~~department~~ *commissioner* shall thereupon examine the maps, plans, and drawings for the purpose of determining whether they meet the reasonable requirements of the city for the purpose of a union depot, and shall, within 30 days after the filing, render a decision thereon. In case the ~~department~~ *commissioner* shall find the maps, plans, and drawings inadequate for the purposes herein provided, it shall so find and point out in detail such inadequacies; and the corporation shall, within 60 days thereafter, so alter its plans and drawings as to conform to the direction of the ~~department~~ *commissioner*; and when so altered to comply with such direction, the ~~department~~ *commissioner* shall thereupon forthwith issue an order ~~under its seal~~ approving of the maps, plats, and drawings; and thereupon such corporation may exercise the powers, rights, and privileges herein conferred to the exclusion of all other persons or corporations.

Sec. 115. Minnesota Statutes 1974, Section 222.41, is amended to read:

222.41 [INADEQUATE FACILITIES; COMPLAINT BY RAILROAD; POWERS OF COMMISSIONER AND DISTRICT COURT.] If, at any time after such union depot shall be completed and opened for the use of the railroads and the public, any railroad using the same shall claim that the facilities afforded it by the corporation, maintaining any such union depot, are inadequate for the proper discharge of its business as a public carrier, it shall make a complaint in writing, specifying the particulars of its claim, and file the same with the ~~department~~ *commissioner*, who shall thereupon give notice by mailing a copy of such complaint to the corporation operating and maintaining any such union depot;

Within 20 days after the service of such complaint by the ~~department~~ *commissioner*, the corporation maintaining any such union depot shall make and file its answer thereto with the ~~department~~ *commissioner*, and thereupon the matter shall be at issue and ready for a hearing before and determination by the ~~department~~ *commissioner*;

If, upon a hearing the charges shall be sustained, the ~~department~~ *commissioner* shall thereupon make an order directing such changes to be made as will meet the requirements of the business of the complaining railroad;

In case any corporation maintaining such union depot shall fail, for 30 days after notice of such order, to begin the changes ordered by the ~~department~~ *commissioner*, the district court of the county within which any such union depot is located, shall have jurisdiction to compel the corporation to comply with the order or orders of the ~~department~~ *commissioner*.

Sec. 116. Minnesota Statutes 1974, Section 222.44, is amended to read:

222.44 [RATES TO BE PAID BY RAILROADS; POWER OF COMMISSIONER; PAYMENTS.] Each railway making use of such union passenger depot shall pay for its use, to the corporation maintaining the same, in proportion to the amount or extent of such use which shall be computed upon a wheelage basis, or such other basis as the ~~department~~ *commissioner* may determine as just and reasonable.

In the use of any such union depot all commercial ~~steam~~ railways shall stand upon an equal right as to any such use, and any favoritism to, or discrimination against, any railway company in that respect is hereby expressly forbidden and declared to be unlawful.

The rate or rates to be paid by any and all of the railroads for the use of such union depot shall be fixed and determined by the ~~department~~ *commissioner*, and shall be computed by it on such a basis as will produce, in the aggregate, a sum sufficient to pay the interest upon the bonds issued and secured by trust deeds or mortgages on the property of any such corporation; the cost of operation, maintenance, repairs and renewals; all taxes, assessments, or charges, either levied or assessed by the public authorities on said property; and a dividend upon the par value of the capital stock of any such corporation not exceeding six percent per annum.

In addition to the foregoing, there shall be set aside each year out of the earnings of the corporation, a sum not exceeding two percent of the bonded indebtedness as a sinking fund.

On the first day of each month, or as soon thereafter as may be practicable, any such union depot company shall furnish each railroad, using the facilities of such union depot, with a statement of account, showing the sums due by it for the previous month on the basis fixed by the ~~department~~ *commissioner*, and the sum so due from each railroad to such union depot company for such use for such preceding month, shall be due and payable on or before

the twentieth of the month in which such statement is rendered, and shall be paid by each railroad to such union depot company.

Sec. 117. Minnesota Statutes 1974, Section 222.45, is amended to read:

222.45 [RAILROAD FAILING TO USE; POWERS AND DUTIES OF COMMISSIONER AND ATTORNEY GENERAL.] If any railroad entering into or passing through any city wherein a union depot has been built pursuant to sections 222.38 to 222.45, shall neglect or refuse to use the same upon the terms and conditions prescribed in sections 222.38 to 222.45, such neglect or refusal shall be made known in writing by such union depot corporation to the ~~department~~ commissioner, who shall thereupon order the railroad complained against to show cause before it ~~him~~ why an order should not be issued by it ~~the commissioner~~ requiring the railroad to make use of such union depot according to the provisions of sections 222.38 to 222.45, and any such union depot company shall also be given notice of the time and place of such hearing. If, at the time and place so fixed, it shall appear that facilities have been provided by such union depot company for use of such union depot by such railroad, and that such facilities are reasonably adequate to care for the business of the railroad, then the ~~department~~ commissioner shall ~~make its order in writing, under its seal, requiring~~ the railroad to make exclusive use of the union depot according to the intent and purpose of sections 222.38 to 222.45.

If such railroad shall neglect or refuse to obey the order of the ~~department~~ commissioner, the ~~department~~ commissioner shall certify the facts in such case to the attorney general, and thereupon it shall be the duty of the attorney general to proceed against such railroad in the district court of the county in which such union depot may be located, to compel performance by such railroad of such order by appropriate proceeding.

Sec. 118. Minnesota Statutes 1974, Section 360.017, Subdivision 1, is amended to read:

360.017 [STATE AIRPORTS FUND.] Subdivision 1. [CREATION.] There is hereby created a fund to be known as the state airports fund. Such fund shall consist of all moneys appropriated to it, or directed to be paid into it, by the legislature. The state airports fund shall be paid out on authorization of the commissioner and shall be used to acquire, construct, improve, maintain, and operate airports and other air navigation facilities and to assist municipalities in the acquisition, construction, improvement, and maintenance of airports and other air navigation facilities. *Salaries and expenses in the department of transportation related to aeronautic planning, administration and operation shall be paid from the state airports fund.*

Sec. 119. [REPEALER.] *Minnesota Statutes 1974, Sections 161.02; 161.03; 169.27; 218.051; 218.061; and 360.014, are repealed.*

Sec. 120. [APPROPRIATION.] *There is hereby appropriated \$150,000 from the general fund to the commissioner of transportation to be available to him upon appointment to organize the department and to initiate the study required by section 3, subdivision 3, clause (d), of this act. This appropriation shall not cancel at the end of the fiscal year but shall be available for the next fiscal year.*

Sec. 121. [EFFECTIVE DATE.] *Section 2, subdivision 1, of this act is effective July 1, 1976. The remaining provisions of this act, except as otherwise provided in this section, are effective upon the appointment of the commissioner. Former departments or agencies shall continue to exercise their functions, powers and duties which are transferred by this act until the commissioner notifies the commissioner of administration that the department of transportation is ready to commence operation. In the initial organization of the department the commissioner shall designate an organizational steering committee consisting of representatives from the departments of administration, aeronautics, highways, public service and the state planning and energy agencies to assist him in the initial organization of the department."*

Further, delete the title in its entirety and insert the following:

"A bill for an act relating to state government; creating a department of transportation; prescribing its powers, duties and functions; transferring certain functions of the department of aeronautics, highways and public service; transferring certain functions of the public service commission; appropriating money; amending Minnesota Statutes 1974, Sections 216A.05; 216A.06; 216A.07; 216A.08; 218.011; 218.021; 218.025; 218.031, as amended; 218.041; 218.071; 219.03; 219.04; 219.14; 219.17; 219.19; 219.20; 219.23; 219.24; 219.25; 219.26; 219.27; 219.28; 219.383; 219.401; 219.41; 219.42; 219.43; 219.46, Subdivisions 1, 4 and 7; 219.47; 219.51; 219.52; 219.54; 219.55; 219.562, Subdivision 3; 219.65; 219.681; 219.70; 219.71; 219.741; 219.742; 219.751; 219.85; 219.86; 219.87; 219.92; 219.93; 219.97, Subdivisions 2 and 12; 221.011, Subdivisions 1, 2, 15, and by adding subdivisions; 221.021; 221.031, Subdivision 1; 221.041; 221.051; 221.081; 221.091; 221.101; 221.111; 221.161; 221.171; 221.181; 221.201; 221.231; 221.261; 221.271; 221.281; 221.295; 221.296, Subdivisions 2, 3, 6 and 7; 221.55; 221.61; 221.62; 221.63; 221.65; 221.66; 221.68; 222.01; 222.34; 222.38; 222.40; 222.41; 222.44; 222.45; 360.017, Subdivision 1; and Minnesota Statutes, 1975 Supplement, Sections 43.09, Subdivision 2a; 219.39; 219.40; 219.662, Subdivisions 5, 6 and 7; 221.011, Subdivision 22; 221.061; 221.071; 221.121; 221.131; 221.141; 221.151; 221.221; 221.291; 221.293; 221.296, Subdivisions 4, 5 and 8; and 221.64; repealing Minnesota Statutes 1974, Sections 161.02; 161.03; 169.27; 218.051; 218.061; and 360.014."

And when so amended the bill do pass and be re-referred to the Committee on Transportation and General Legislation. Amendments adopted. Report adopted.

Mr. Conzemius from the Committee on Health, Welfare and Corrections, to which was referred

S. F. No. 634: A bill for an act relating to corrections; sentencing and post conviction disposition of criminal offenders; transferring the powers and duties of the Minnesota corrections authority to the commissioner of corrections; abolishing the Minnesota corrections authority; providing for determinate sentencing; providing for rehabilitation of criminal offenders by means of a mutual agreement program; appropriating money; amending Minnesota Statutes 1974, Sections 152.15; 242.02; 242.03; 242.09; 242.10; 242.13; 242.18; 242.19; 242.20; 242.21; 242.24; 242.25; 242.26; 242.27; 242.30; 242.34; 242.35; 609.02, Subdivision 2; 609.03; 609.135, Subdivision 1; 609.145, Subdivision 1; 609.165, Subdivision 2; 609.17, Subdivision 4; 609.175, Subdivision 2; 609.185; 609.19; 609.195; 609.20; 609.205; 609.21; 609.215; 609.225; 609.235; 609.24; 609.245; 609.25, Subdivision 2; 609.255; 609.26; 609.27, Subdivision 2; 609.291; 609.292; 609.293, Subdivisions 2, 3 and 4; 609.295; 609.296; 609.31; 609.32; 609.355, Subdivision 2; 609.365; 609.375, Subdivision 2; 609.39; 609.395; 609.405, Subdivision 2; 609.42, Subdivision 1; 609.425; 609.445; 609.455; 609.465; 609.48, Subdivisions 1 and 4; 609.485, Subdivision 4; 609.495, Subdivision 1; 609.52, Subdivisions 2 and 3; 609.525, Subdivision 1; 609.53, Subdivisions 1 and 3; 609.54; 609.55, Subdivision 2; 609.56; 609.565; 609.58, Subdivision 2; 609.59; 609.595, Subdivision 1; 609.60; 609.61; 609.615; 609.62, Subdivision 2; 609.625; 609.63; 609.635; 609.64; 609.645; 609.65; 609.67, Subdivision 2; 609.71; 609.713; 609.785; 609.82; 609.825, Subdivision 2; 609.83; repealing Minnesota Statutes 1974, Sections 241.045; 241.25; 241.26; 241.31; 241.32; 242.22; 242.46; 243.05; 243.07; 243.09; 243.10; 243.12; 243.13; 243.14; 246.43; 609.10; 609.11; 609.115; 609.116; 609.12; 609.13, Subdivision 1; 609.155; and 609.16.

Reports the same back with the recommendation that the bill be amended as follows:

Strike everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 1974, Section 152.15, is amended to read:

Subdivision 1. Any person who violates section 152.09, subdivision 1, clause (1) with respect to:

(1) A controlled substance classified in Schedule I or II which is a narcotic drug, is guilty of a crime and upon conviction ~~may shall~~ be imprisoned for ~~not more than 15 years or fined not more than \$25,000, or both for a first violation, and for a second or subsequent violation, upon conviction, shall be imprisoned for not less than one year nor more than 30 years or fined not more than \$50,000, or both 12 years ;~~

(2) Any other controlled substance classified in Schedule I, II, or III, is guilty of a crime and upon conviction ~~may shall~~ be imprisoned for ~~not more than five years, fined not more than \$15,000, or both for a first violation, and for a second or subse-~~

~~quent violation, upon conviction shall be imprisoned for not less than one year nor more than ten years or fined not more than \$30,000, or both four years ;~~

(3) A substance classified in Schedule IV, is guilty of a crime and upon conviction ~~may shall~~ be imprisoned for ~~not more than three years, fined not more than \$10,000, or both for a first violation and for a second or subsequent violation, upon conviction, shall be imprisoned for not less than six months nor more than six years or fined not more than \$20,000, or both two years ;~~

(4) A substance classified in Schedule V, is guilty of a crime and upon conviction may be imprisoned for not more than one year, fined not more than \$1,000, or both;

(5) The distribution of a small amount of marijuana for no remuneration, shall be treated as provided in subdivision 2, clause (5).

Subd. 2. Any person who violates section 152.09, subdivision 1, clause (2), with respect to:

(1) A controlled substance classified in Schedule I or II which is a narcotic drug, is guilty of a crime and upon conviction ~~may shall~~ be imprisoned for ~~not more than five years or fined not more than \$5,000, or both two years ;~~

(2) Any other controlled substance classified in Schedule I, II, III, is guilty of a crime and upon conviction ~~may shall~~ be imprisoned for ~~not more than three years, fined not more than \$3,000, or both one year ;~~

(3) A substance classified in Schedule IV, is guilty of a crime and upon conviction ~~may shall~~ be imprisoned for ~~not more than three years, fined not more than \$3,000, or both one year ;~~

(4) A substance classified in Schedule V, is guilty of a crime and upon conviction may be imprisoned for not more than one year, fined not more than \$1,000, or both; provided, however, that any person convicted under this section of possessing a substance classified under Schedule V or a small amount of marijuana, and placed on probation may be required to take part in a drug education program as specified by the court;

(5) A small amount of marijuana is guilty of a misdemeanor. A subsequent violation of this clause within one year is a misdemeanor, and a person so convicted may be required to participate in a medical evaluation. A person who is the owner of a private motor vehicle, or the driver of the motor vehicle if the owner is not present, and who possesses on his person or knowingly keeps or allows to be kept in a motor vehicle within the area of the vehicle normally occupied by the driver or passengers more than .05 ounce of marijuana is guilty of a misdemeanor. This area of the vehicle shall not include the trunk of the motor vehicle when such vehicle is equipped with a trunk or another area of the vehicle not normally occupied by the driver or passengers if the vehicle is not

equipped with a trunk. A utility or glove compartment shall be deemed to be within the area occupied by the driver and passengers.

Subd. 3. Any person who violates section 152.09, subdivision 2, is guilty of a crime and upon conviction ~~may shall~~ be imprisoned for ~~not more than four years; or fined not more than \$30,000; or both two years.~~

Subd. 4. Any person 18 years of age or over who violates section 152.09, subdivision 1, clause (1), by distributing a controlled substance listed in Schedules I or II which is a narcotic drug to a person under 18 years of age who is at least three years his junior ~~is punishable shall be punished by the fine authorized by section 152.15, subdivision 1, clause (1), by a term of imprisonment of up to twice that authorized by section 152.15, subdivision 1, clause (1) or by both.~~ Any person 18 years of age or over who violates section 152.09, subdivision 1, by distributing any other controlled substance listed in Schedules I, II, III, IV, and V, except marijuana, to a person under 18 years of age who is at least three years his junior ~~is punishable shall be punished by the fine authorized by section 152.15, subdivision 1, clauses (2), (3), or (4), by a term of imprisonment up to twice that authorized required by section 152.15, subdivision 1, clauses (2), (3), or (4) ; or both.~~

Subd. 5. Any person convicted of a second or subsequent offense under Laws 1971, Chapter 937, ~~except as provided in subdivision 1, clauses (1), (2), (3) and (5) may be imprisoned for a term up to twice the term otherwise authorized; fined an amount up to twice that otherwise authorized; or both.~~

Sec. 2. [DEFINITIONS.] *Subdivision 1. For purposes of sections 2 to 8, the following terms have the meanings given them.*

Subd. 2. "Inmate" means any person convicted of a felony.

Subd. 3. "Commissioner" means the commissioner of corrections or his designee.

Subd. 4. "Correctional institution" means any institution under the operational authority of the commissioner of corrections.

Sec. 3. [DETERMINATE SENTENCING.] *After a person has been found guilty of a crime punishable as a felony, and the person has been sentenced for the term provided for that felony, the court shall immediately place the person in the custody of the commissioner.*

Sec. 4. [MUTUAL AGREEMENT PROGRAMS.] *The commissioner of corrections shall draft, at the request of an inmate and within 90 days after assuming custody of the inmate, a mutual agreement program. The mutual agreement program shall be drafted after a post-conviction investigation of the inmate has been made by the commissioner. In drafting a mutual agreement program, the commissioner shall also refer to any presentence investigation which has been made of the inmate. The agreement shall provide the following:*

(a) A program of vocational or educational training with specific chronological and achievement objectives, including completion of specified educational and vocational programs; but the program may not include rehabilitative or therapeutic objectives;

(b) Frequent and regular evaluation of the inmate by the commissioner; and

(c) A consideration of any educational qualifications or skills of the inmate when specifying certain types of work expectations.

In addition, the agreement may specify participation of the inmate in non-institutional or extra-institutional programs.

The inmate may decline to enter into the agreement. Whether or not an inmate consents to participate in a mutual agreement program, he shall serve the sentence imposed by the sentencing court, reduced by good time credited.

Sec. 5. [MUTUAL AGREEMENT PROGRAM; INMATE'S RIGHTS.] Subdivision 1. The inmate shall have the right to appeal to the commissioner if he believes the terms of his agreement have been violated. The commissioner shall promptly investigate any appeal filed under this subdivision and shall take appropriate action if he determines the terms of the mutual agreement program have been violated.

Subd. 2. The inmate and his counsel shall be informed of and have the right to inspect the inmate's records, including any evaluations of his progress in fulfilling the terms of his mutual agreement program.

Sec. 6. [GOOD TIME.] By December 31, 1976, the commissioner shall promulgate, pursuant to chapter 15, rules relating to inmate conduct, specifying offenses which may result in denial of "good time" and the amount of "good time" which may be denied as a result of each offense. Each sentence imposed for a felony offense shall be reduced in duration by one day for each day during which the inmate violates no "good time" rules as promulgated by the commissioner. In no case shall an individual offense result in the denial of more than 30 days of "good time". In no case shall "good time" earned be taken away. The denial of "good time" shall be considered to be a disciplinary measure taken against an inmate, and the procedure for denial of "good time" and the inmate's rights in that process shall be those in effect for disciplinary procedures in each correctional institution on March 1, 1976.

Sec. 7. [POST-RELEASE PROGRAMS.] Upon the completion of the term to which an inmate is sentenced, as reduced by "good time" earned, the commissioner shall offer to the inmate a voluntary program not to exceed six months designed to facilitate reintegration of the inmate into society. The program may include such assistance as aid in finding employment and housing.

Sec. 8. [RULES.] The commissioner shall, pursuant to chapter 15, promulgate all rules necessary to implement this act.

Sec. 9. [241.046] [TRANSFER OF POWERS AND DUTIES FROM MINNESOTA CORRECTIONS AUTHORITY.] *Subdivision 1. Except as provided in this section, the provisions of sections 1 to 91 shall not apply to persons sentenced on or before December 31, 1976.*

Subd. 2. The Minnesota corrections authority shall retain all powers and duties vested in and imposed upon it through December 30, 1978, with relation to persons sentenced on or before December 31, 1976. On December 31, 1978, all the powers and duties vested in and imposed upon the Minnesota corrections authority as then constituted, including but not limited to those relating to the disposition of persons committed to the authority by the district courts of this state and issuing final discharge to persons convicted of crime and committed to the authority, shall be transferred to and imposed upon the commissioner of corrections, and the corrections authority shall be abolished.

Subd. 3. The provisions of sections 1 to 91 shall apply to all persons convicted of a felony and sentenced pursuant to that conviction after December 31, 1976.

Subd. 4. Nothing in sections 1 to 91 shall be deemed to limit the powers and duties otherwise provided by law to the commissioner of corrections with regard to the management of penal institutions or the disposition of inmates unless those powers and duties are inconsistent with the provisions of sections 1 to 91, in which case those powers and duties shall be superseded by the provisions of sections 1 to 91.

Subd. 5. All references in Minnesota Statutes to the Minnesota corrections authority relating to persons committed to the authority by the district courts of this state shall, on and after December 31, 1978, be deemed to refer to the commissioner of corrections.

Subd. 6. The Minnesota corrections authority shall take into consideration the sentence terms and sentence reductions provided in sections 1 to 91, and the penal philosophy therein embodied in its deliberations relative to parole, probation, release, or other disposition of inmates sentenced on or before December 31, 1976.

Sec. 10. Minnesota Statutes 1974, Section 609.02, Subdivision 8, is amended to read:

Subd. 8. [GREAT BODILY HARM.] "Great bodily harm" means bodily injury which creates a high probability of death, or which causes serious permanent disfigurement, or which causes a permanent or protracted loss or impairment of the function of any bodily member or organ ~~or other serious bodily harm~~.

Sec. 11. Minnesota Statutes 1974, Section 609.03, is amended to read:

609.03 [PUNISHMENT WHEN NOT OTHERWISE FIXED.] If a person is convicted of a crime for which no punishment is otherwise provided he may be sentenced as follows:

(1) If the crime is a felony, to imprisonment for ~~not more than five years or to payment of a fine of not more than \$5,000, or both two years ; or~~

(2) If the crime is a gross misdemeanor, to imprisonment for not more than one year or to payment of a fine of not more than \$1,000, or both; or

(3) If the crime is a misdemeanor, to imprisonment for not more than 90 days or to payment of a fine of not more than \$300, or both; or

(4) If the crime is other than a misdemeanor and a fine is imposed but the amount is not specified, to payment of a fine of not more than \$500, or to imprisonment for a specified term of not more than six months if the fine is not paid.

Sec. 12. Minnesota Statutes 1974, Section 609.10, is amended to read:

609.10 [SENTENCES AVAILABLE.] *Subdivision 1.* Upon conviction of a felony and compliance with the other provisions of this chapter the court, if it imposes sentence, may ~~sentence the defendant to the extent authorized by law as follows:~~

- (1) ~~To life imprisonment; or~~
- (2) ~~To imprisonment for a maximum term of years fixed by the court; or~~
- (3) ~~To an indeterminate term of imprisonment which shall be deemed to be for the maximum term authorized by law; or~~
- (4) ~~To both imprisonment and payment of a fine; or~~
- (5) ~~To payment of a fine without imprisonment or to imprisonment if the fine is not paid. increase or decrease the statutory time period of the sentence by up to 15 percent. If the length of the sentence imposed is increased or decreased, or consecutive sentences imposed for multiple offenses, the sentencing court shall state the reasons for the increase, decrease, or imposition of consecutive sentences in a memorandum accompanying the imposition of sentence.~~

Subd. 2. An appeal from the trial court to the supreme court of the increased or decreased sentence or consecutive sentences imposed may be filed by a defendant in the following instances:

- (a) After a finding of guilt by a judge or jury following a trial; but no appeal of a sentence imposed following the acceptance of a plea other than "not guilty" shall be permitted;
- (b) After the revocation or modification of an order staying the imposition or execution of a sentence; or
- (c) After a resentence.

Subd. 3. The supreme court may review the merits of the sentence imposed to determine whether the sentence is inconsistent with statutory criteria or requirements, is unjustifiably disparate

in comparison with cases of a similar nature, or is excessive, unreasonable or inappropriate under the circumstances. This power shall be in addition to all other powers of review presently existing or hereafter conferred by law. Upon consideration of the appeal, the supreme court may dismiss the appeal, affirm, reduce, modify, vacate, or set aside the sentence imposed, remand the cause and direct the entry of an appropriate sentence or order, or direct such further proceedings to be had as may be required under the circumstances. The supreme court shall state the reasons for its actions except when the appeal is dismissed or the sentence is affirmed.

Subd. 4. The procedure for taking an appeal under this section shall follow the rules of procedure for an appeal to the supreme court. A dismissal of an appeal brought under this section shall not prejudice any aspect of an appeal brought under any other section.

Subd. 5. When an appeal is filed, the clerk of the trial court shall certify to the supreme court transcripts of the proceedings, records, reports, documents, and other information relating to the offense of the defendant and to the sentence imposed on him as the supreme court by rule or order may require. Any report or document contained in the record on appeal shall be available to the defendant to the extent that it was available in the trial court.

Subd. 6. This section shall not be construed to confer or enlarge any right of a defendant to be released following his conviction pending a determination of his application for leave to appeal or pending an appeal under this section.

Sec. 13. Minnesota Statutes 1974, Section 609.135, Subdivision 1, is amended to read:

609.135 [STAY OF IMPOSITION OR EXECUTION OF SENTENCE.] Subdivision 1. ~~Except when a sentence of life imprisonment is required by law~~ *Except as herein provided*, any court, including a justice of the peace to the extent otherwise authorized by law, may stay imposition or execution of sentence and place the defendant on probation with or without supervision and on such terms as the court may prescribe. The court may order the supervision to be under the probation officer of the court, or, if there is none and the conviction is for a felony, by the commissioner of corrections, or in any case by some other suitable and consenting person.

The execution or imposition of sentence may not be stayed upon the conviction for a felony offense involving death, or great bodily harm as defined in section 10 of this act or during the commission of which the offender is armed with a firearm or involving sexual penetration as defined in Minnesota Statutes, 1975 Supplement, Section 609.341, Subdivision 12, or in any case in which the defendant is convicted of a third felony offense within a ten year period.

Sec. 14. Minnesota Statutes 1974, Section 609.145, Subdivision 1, is amended to read:

609.145 [CREDIT FOR PRIOR IMPRISONMENT.] Subdivision 1. When a person has been imprisoned pursuant to a conviction which is set aside and is thereafter convicted of a crime growing out of the same act or omission, the ~~maximum~~ period of imprisonment to which he ~~may be is~~ sentenced is reduced by the period of the prior imprisonment and the time earned thereby in diminution of sentence. ~~If sentence is for less than this maximum, the prior imprisonment and time earned in diminution of sentence shall be credited toward the sentence unless the court otherwise directs.~~

Sec. 15. Minnesota Statutes 1974, Section 609.165, Subdivision 2, is amended to read:

Subd. 2. The discharge may be:

(1) By order of the court following stay of sentence or stay of execution of sentence; or

(2) By order of the Minnesota corrections authority prior to expiration of sentence; or

(3) Upon expiration of sentence *as reduced by good time earned, if any.*

Sec. 16. Minnesota Statutes 1974, Section 609.17, Subdivision 4, is amended to read:

Subd. 4. Whoever attempts to commit a crime ~~may~~ *shall* be sentenced as follows:

~~(1) If the maximum sentence provided for the crime is life imprisonment, to not more than 20 years; or~~

~~(2) For any other attempt, to not more than one half of the maximum imprisonment or fine or both provided for the crime attempted; but such maximum in any case shall not be less than imprisonment for 90 days or a fine of \$100.~~

Sec. 17. Minnesota Statutes 1974, Section 609.175, Subdivision 2, is amended to read:

Subd. 2. [TO COMMIT CRIME.] Whoever conspires with another to commit a crime and in furtherance of the conspiracy one or more of the parties does some overt act in furtherance of such conspiracy may be sentenced as follows:

(1) If the crime intended is a misdemeanor, by a sentence to imprisonment for not more than 90 days or to payment of a fine of not more than \$300, or both; or

(2) If the crime intended is ~~murder in the first degree or treason, to imprisonment for not more than 20 years; or~~

~~(3) If the crime intended is any other a felony or a gross misdemeanor, to imprisonment or to payment of a fine of not more than for one half the imprisonment or fine provided for that felony or gross misdemeanor or both.~~

Sec. 18. Minnesota Statutes, 1975 Supplement, Section 609.185, is amended to read:

609.185 [MURDER IN THE FIRST DEGREE.] Whoever does either of the following is guilty of murder in the first degree and shall be sentenced to ~~imprisonment for life~~ *a term of 20 years* :

(1) Causes the death of a human being with premeditation and with intent to effect the death of such person or of another; or

(2) Causes the death of a human being while committing or attempting to commit criminal sexual conduct in the first or second degree with force or violence, either upon or affecting such person or another.

Sec. 19. Minnesota Statutes 1974, Section 609.19, is amended to read:

609.19 [MURDER IN THE SECOND DEGREE.] Whoever causes the death of a human being with intent to effect the death of such person or another, but without premeditation, is guilty of murder in the second degree and ~~may shall~~ be sentenced to imprisonment for ~~not more than 40~~ *16* years.

Sec. 20. Minnesota Statutes 1974, Section 609.195, is amended to read:

609.195 [MURDER IN THE THIRD DEGREE.] Whoever, without intent to effect the death of any person, causes the death of another by either of the following means, is guilty of murder in the third degree and ~~may shall~~ be sentenced to imprisonment for ~~not more than 25~~ *ten* years:

(1) Perpetrates an act eminently dangerous to others and evincing a depraved mind, regardless of human life; or

(2) Commits or attempts to commit a felony upon or affecting the person whose death was caused or another, except rape or sodomy with force or violence within the meaning of section 609.185.

Sec. 21. Minnesota Statutes 1974, Section 609.20, is amended to read:

609.20 [MANSLAUGHTER IN THE FIRST DEGREE.] Whoever does any of the following is guilty of manslaughter in the first degree and ~~may shall~~ be sentenced to imprisonment for ~~not more than 15 years or to payment of a fine of not more than \$15,000, or both six years~~ :

(1) Intentionally causes the death of another person in the heat of passion provoked by such words or acts of another as would provoke a person ~~or of~~ ordinary self-control under like circumstances; or

(2) Causes the death of another in committing or attempting to commit a crime with such force and violence that death of

or great bodily harm to any person was reasonably foreseeable, and murder in the first or second degree was not committed thereby; or

(3) Intentionally causes the death of another person because the actor is coerced by threats made by someone other than his co-conspirator and which cause him reasonably to believe that his act is the only means of preventing imminent death to himself or another.

Sec. 22. Minnesota Statutes 1974, Section 609.205, is amended to read:

609.205 [MANSLAUGHTER IN THE SECOND DEGREE.] Whoever causes the death of another by any of the following means is guilty of manslaughter in the second degree and *may* ~~shall~~ be sentenced to imprisonment for ~~not more than seven years or to payment of a fine of not more than \$7,000, or both three years :~~

(1) By his culpable negligence whereby he creates an unreasonable risk, and consciously takes chances of causing death or great bodily harm to another; or

(2) By shooting another with a firearm or other dangerous weapon as a result of negligently believing him to be a deer or other animal; or

(3) By setting a spring gun, pit fall, deadfall, snare, or other like dangerous weapon or device; or

(4) By negligently or intentionally permitting any animal, known by him to have vicious propensities, to go at large, or negligently failing to keep it properly confined, and the victim was not at fault.

Sec. 23. Minnesota Statutes 1974, Section 609.21, is amended to read:

609.21 [CRIMINAL NEGLIGENCE RESULTING IN DEATH.] Whoever operates a vehicle as defined in Minnesota Statutes, Section 169.01, Subdivision 2, or an aircraft or watercraft, in a grossly negligent manner and thereby causes the death of a human being not constituting murder or manslaughter is guilty of criminal negligence in the operation of a vehicle resulting in death and *may shall* be sentenced to imprisonment for ~~not more than five years or to payment of a fine of not more than \$5,000, or both two years .~~

Sec. 24. Minnesota Statutes 1974, Section 609.215, is amended to read:

609.215 [SUICIDE.] Subdivision 1. [AIDING SUICIDE.] Whoever intentionally advises, encourages, or assists another in taking his own life *may shall* be sentenced to imprisonment for ~~not more than 15 years or to payment of a fine of not more than \$15,000, or both six years .~~

Subd. 2. [AIDING ATTEMPTED SUICIDE.] Whoever intentionally advises, encourages, or assists another who attempts but fails to take his own life ~~may shall~~ be sentenced to imprisonment for ~~not more than seven years or to payment of a fine of not more than \$7,000, or both three years~~ .

Sec. 25. Minnesota Statutes 1974, Section 609.225, is amended to read:

609.225 [AGGRAVATED ASSAULT.] Subdivision 1. Whoever assaults another and inflicts great bodily harm ~~may shall~~ be sentenced to imprisonment for ~~not more than ten years or to payment of a fine of not more than \$10,000, or both four years~~ .

Subd. 2. Whoever assaults another with a dangerous weapon but without inflicting great bodily harm ~~may shall~~ be sentenced to imprisonment for ~~not more than five years or to payment of a fine of not more than \$5,000, or both two years~~ .

Sec. 26. Minnesota Statutes 1974, Section 609.235, is amended to read:

609.235 [USE OF DRUGS TO INJURE OR FACILITATE CRIME.] Whoever administers to another or causes another to take any poisonous, stupefying, overpowering, narcotic or anesthetic substance with intent thereby to injure or to facilitate the commission of a crime ~~may shall~~ be sentenced to imprisonment for ~~not more than five years or to payment of a fine of not more than \$5,000, or both two years~~ .

Sec. 27. Minnesota Statutes 1974, Section 609.24, is amended to read:

609.24 [SIMPLE ROBBERY.] Whoever, knowing he is not entitled thereto, takes personal property from the person or in the presence of another and uses or threatens the imminent use of force against any person to overcome his resistance or powers of resistance to, or to compel acquiescence in, the taking or carrying away of the property is guilty of robbery and ~~may shall~~ be sentenced to imprisonment for ~~not more than ten years or to payment of a fine of not more than \$10,000, or both four years~~ .

Sec. 28. Minnesota Statutes 1974, Section 609.245, is amended to read:

609.245 [AGGRAVATED ROBBERY.] Whoever, while committing a robbery, is armed with a dangerous weapon or inflicts bodily harm upon another is guilty of aggravated robbery and ~~may shall~~ be sentenced to imprisonment for ~~not more than 20 years or to payment of a fine of not more than \$20,000, or both eight years~~ .

Sec. 29. Minnesota Statutes 1974, Section 609.25, Subdivision 2, is amended to read:

Subd. 2. [SENTENCE.] Whoever violates subdivision 1 ~~may shall~~ be sentenced as follows:

(1) If the victim is released in a safe place without great bodily harm, to imprisonment for ~~not more than 20 years or to payment of a fine of not more than \$20,000, or both eight years ;~~ or

(2) Otherwise to imprisonment for ~~not more than 40 years or to payment of a fine of not more than \$40,000, or both 16 years .~~

Sec. 30. Minnesota Statutes 1974, Section 609.255, is amended to read:

609.255 [FALSE IMPRISONMENT.] Whoever, knowing he has no lawful authority to do so, intentionally confines or restrains a child not his own under the age of 18 years without his parent's or legal custodian's consent, or any other person without his consent, is guilty of false imprisonment and ~~may shall~~ be sentenced to imprisonment for ~~not more than three years or to payment of a fine of not more than \$3,000, or both one year .~~

Sec. 31. Minnesota Statutes 1974, Section 609.26, is amended to read:

609.26 [DETAINING OWN CHILD.] Whoever intentionally detains his own child under the age of 18 years outside the state of Minnesota, with intent to deny another's rights under an existing court order ~~may shall~~ be sentenced to imprisonment for ~~not more than two years or to payment of a fine of not more than \$2,000, or both one year .~~

Sec. 32. Minnesota Statutes 1974, Section 609.27, Subdivision 2, is amended to read:

Subd. 2. [SENTENCE.] Whoever violates subdivision 1 ~~may shall~~ be sentenced as follows:

(1) To imprisonment for not more than 90 days or to payment of a fine of not more than \$300, or both if neither the pecuniary gain received by the violator nor the loss suffered by the person threatened or another as a result of the threat exceeds \$100, or the benefits received or harm sustained are not susceptible of pecuniary measurement; or

(2) To imprisonment for ~~not more than five years or to payment of a fine of not more than \$5,000, or both two years ,~~ if such pecuniary gain or loss is more than \$100 but less than \$2,500; or

(3) To imprisonment for ~~not more than ten years or to payment of a fine of not more than \$10,000, or both four years ,~~ if such pecuniary gain or loss is \$2,500, or more.

Sec. 33. Minnesota Statutes 1974, Section 609.293, Subdivision 2, is amended to read:

Subd. 2. [AGGRAVATED SODOMY.] Whoever under any of the following circumstances commits an act of sodomy upon another or causes him to participate in any act of sodomy, without the other's consent, commits aggravated sodomy and ~~may shall~~ be sentenced to imprisonment for ~~not more than 30 12~~ years:

(1) The victim's resistance is overcome by force; or

(2) The victim's resistance is prevented by reasonable fear of immediate and great bodily harm to the victim or another; or

(3) The victim is unconscious, physically powerless to resist, or incapable of giving consent through mental illness or defect and the condition is known or reasonably should have been known to the actor.

Sec. 34. Minnesota Statutes 1974, Section 609.293, Subdivision 3, is amended to read:

Subd. 3. [SODOMY.] Whoever commits an act of sodomy upon another or causes him to participate in an act of sodomy, with the other's consent obtained under any of the following circumstances ~~may~~ *shall* be sentenced to imprisonment ~~for not more than~~ *ten* four years.

(1) He misleads the victim as to the nature of this act being committed; or

(2) The victim's will to resist is destroyed by drug or intoxicant and the condition is known or reasonably should have been known to the actor.

Sec. 35. Minnesota Statutes 1974, Section 609.293, Subdivision 4, is amended to read:

Subd. 4. [SODOMY UPON OR WITH CHILD.] Whoever commits an act of sodomy upon or with any child under the age of 18 years, not his spouse, whether or not the act is also a violation of subdivision 2 or 3 and notwithstanding the consent of the child, ~~may~~ *shall* be sentenced as follows:

(1) If the child is under the age of ten years, to imprisonment ~~for not more than 30~~ 12 years; or

(2) If the child is ten years of age but under the age of 14 years, to imprisonment ~~for not more than 20~~ eight years; or

(3) If the child is over the age of 14 years, to imprisonment ~~for not more than 10~~ four years.

Sec. 36. Minnesota Statutes 1974, Section 609.31, is amended to read:

609.31 [LEAVING THE STATE TO EVADE ESTABLISHMENT OF PATERNITY.] Whoever with intent to evade proceedings to establish his paternity leaves the state knowing that a woman with whom he has had sexual intercourse is pregnant or has given birth within the previous 60 days to a living child ~~may~~ *shall* be sentenced to imprisonment ~~for not more than two years or to payment of a fine of not more than \$2,000, or both~~ one year.

Sec. 37. Minnesota Statutes 1974, Section 609.32, is amended to read:

609.32 [PROSTITUTION.] Subdivision 1. [DEFINITIONS.]

(1) "Prostitution" means engaging or offering or agreeing to

engage for hire in sexual intercourse, as defined in section 609.29, or sodomy as defined in section 609.293, subdivision 1.

(2) A "place of prostitution" is a house or other place where prostitution is practiced or from which prostitution is promoted.

Subd. 2. [ACTS PROHIBITED.] Whoever intentionally does any of the following ~~may shall~~ be sentenced to imprisonment for ~~not more than ten years or to payment of a fine of not more than \$10,000, or both four years :~~

(1) Solicits or induces another under the age of 18 years to practice prostitution; or

(2) Being a parent, guardian, or other custodian of the person of a child under the age of 18 years consents to his being taken or detained for the purposes of prostitution.

Subd. 3. [OTHER ACTS PROHIBITED.] Whoever intentionally does any of the following ~~may shall~~ be sentenced to imprisonment for ~~not more than five years or to payment of a fine of not more than \$5,000, or both two years :~~

(1) Keeps a place of prostitution; or

(2) Leases or otherwise permits premises owned by him or under his control to be used as a place of prostitution; or

(3) Solicits or induces another over the age of 18 years to practice prostitution; or

(4) Solicits another under the age of 18 years to have sexual intercourse or to commit sodomy with a prostitute or admits him to a place of prostitution; or

(5) Engages as a prostitute in an act of sexual intercourse or sodomy with another under the age of 18 years; or

(6) Transports a prostitute from one place of prostitution within the state to another such place within or without the state, or brings a prostitute into the state, for the purpose of prostitution.

Subd. 4. [FURTHER ACTS PROHIBITED.] Whoever intentionally does any of the following may be sentenced to imprisonment for not more than one year or to payment of a fine of not more than \$1,000, or both:

(1) Engages in prostitution; or

(2) Is supported in whole or in part by the earnings of a prostitute; or

(3) Solicits for a prostitute, directs, takes, or transports another to a prostitute or place of prostitution, or brings a prostitute to him, for the purpose of sexual intercourse or sodomy with a prostitute.

(4) Hires or offers or agrees to hire another person to engage in sexual intercourse or sodomy.

Sec. 38. Minnesota Statutes, 1975 Supplement, Section 609.342, is amended to read:

609.342 [CRIMINAL SEXUAL CONDUCT IN THE FIRST DEGREE.] A person is guilty of criminal sexual conduct in the first degree and *may shall* be sentenced to imprisonment for ~~not more than 20~~ *eight* years, if he engages in sexual penetration with another person and if any of the following circumstances exists:

(a) The complainant is under 13 years of age and the actor is more than 36 months older than the complainant. Neither mistake as to the complainant's age nor consent to the act by the complainant is a defense; or

(b) The complainant is at least 13 but less than 16 years of age and the actor is more than 48 months older than the complainant and in a position of authority over the complainant, and uses this authority to coerce the complainant to submit. Neither mistake as to the complainant's age nor consent to the act by the complainant is a defense; or

(c) Circumstances existing at the time of the act cause the complainant to have a reasonable fear of imminent great bodily harm to the complainant or another; or

(d) The actor is armed with a dangerous weapon or any article used or fashioned in a manner to lead the complainant to reasonably believe it to be a dangerous weapon and uses or threatens to use the weapon or article to cause the complainant to submit; or

(e) The actor causes personal injury to the complainant, and either of the following circumstances exist:

(i) The actor uses force or coercion to accomplish sexual penetration; or

(ii) The actor knows or has reason to know that the complainant is mentally defective, mentally incapacitated, or physically helpless; or

(f) The actor is aided or abetted by one or more accomplices within the meaning of section 609.05, and either of the following circumstances exists:

(i) An accomplice uses force or coercion to cause the complainant to submit; or

(ii) An accomplice is armed with a dangerous weapon or any article used or fashioned in a manner to lead the complainant reasonably to believe it to be a dangerous weapon and uses or threatens to use the weapon or article to cause the complainant to submit.

Sec. 39. Minnesota Statutes, 1975 Supplement, Section 609.343, is amended to read:

609.343 [CRIMINAL SEXUAL CONDUCT IN THE SECOND DEGREE.] A person is guilty of criminal sexual conduct in the

second degree and ~~may~~ *shall* be sentenced to imprisonment for ~~not more than 15~~ six years if he engages in sexual contact with another person and if any of the following circumstances exists:

(a) The complainant is under 13 years of age and the actor is more than 36 months older than the complainant. Neither mistake as to the complainant's age nor consent to the act by the complainant is a defense; or

(b) The complainant is at least 13 but less than 16 years of age and the actor is more than 48 months older than the complainant and in a position of authority over the complainant, and uses this authority to coerce the complainant to submit. Neither mistake as to the complainant's age nor consent to the act by the complainant is a defense; or

(c) Circumstances existing at the time of the act cause the complainant to have a reasonable fear of imminent great bodily harm to the complainant or another; or

(d) The actor is armed with a dangerous weapon or any article used or fashioned in a manner to lead the complainant to reasonably believe it to be a dangerous weapon and uses or threatens to use the dangerous weapon to cause the complainant to submit; or

(e) The actor causes personal injury to the complainant, and either of the following circumstances exist:

(i) The actor uses force or coercion to accomplish the sexual contact; or

(ii) The actor knows or has reason to know that the complainant is mentally defective, mentally incapacitated, or physically helpless; or

(f) The actor is aided or abetted by one or more accomplices within the meaning of section 609.05, and either of the following circumstances exists:

(i) An accomplice uses force or coercion to cause the complainant to submit; or

(ii) An accomplice is armed with a dangerous weapon or any article used or fashioned in a manner to lead the complainant to reasonably believe it to be a dangerous weapon and uses or threatens to use the weapon or article to cause the complainant to submit.

Sec. 40. Minnesota Statutes, 1975 Supplement, Section 609.344, is amended to read:

609.344 [CRIMINAL SEXUAL CONDUCT IN THE THIRD DEGREE.] A person is guilty of criminal sexual conduct in the third degree and ~~may~~ *shall* be sentenced to imprisonment for ~~not more than ten~~ four years, if he engages in sexual penetration with another person and any of the following circumstances exists:

(a) The complainant is under 13 years of age and the actor is no more than 36 months older than the complainant. Neither

mistake as to the complainant's age nor consent to the act by the complainant shall be a defense; or

(b) The complainant is at least 13 but less than 16 years of age and the actor is more than 24 months older than the complainant and not in a position of authority over the complainant. In any such case it shall be an affirmative defense, which must be proved by a preponderance of the evidence, that the actor believes the complainant to be 16 years of age or older. If the actor in such a case is no more than 48 months but more than 24 months older than the complainant, he may be sentenced to imprisonment for not more than five years. Consent by the complainant is not a defense; or

(c) The actor uses force or coercion to accomplish the penetration; or

(d) The actor knows or has reason to know that the complainant is mentally defective, mentally incapacitated, or physically helpless.

Sec. 41. Minnesota Statutes, 1975 Supplement, Section 609.345, is amended to read:

609.345 [CRIMINAL SEXUAL CONDUCT IN THE FOURTH DEGREE.] A person is guilty of criminal sexual conduct in the fourth degree and ~~may~~ *shall* be sentenced to imprisonment for ~~not more than five two~~ years, if he engages in sexual contact with another person and if any of the following circumstances exists:

(a) The complainant is under 13 years of age and the actor is no less than 36 months older than the complainant. Neither mistake as to the complainant's age or consent to the act by the complainant is a defense; or

(b) The complainant is at least 13 but less than 16 years of age and the actor is more than 48 months older than the complainant or in a position of authority over the complainant and uses this authority to coerce the complainant to submit. In any such case, it shall be an affirmative defense which must be proved by a preponderance of the evidence that the actor reasonably believes the complainant to be 16 years of age or older; or

(c) The actor uses force or coercion to accomplish the sexual contact; or

(d) The actor knows or has reason to know that the complainant is mentally defective, mentally incapacitated, or physically helpless.

Sec. 42. Minnesota Statutes 1974, Section 609.355, Subdivision 2, is amended to read:

Subd. 2. [ACTS CONSTITUTING.] Whoever does any of the following is guilty of bigamy and ~~may~~ *shall* be sentenced to imprisonment for ~~not more than five years or to payment of a fine of not more than \$5,000, or both two years~~ :

(1) Contracts a marriage in this state with knowledge that his prior marriage is not dissolved; or

(2) Contracts a marriage in this state with knowledge that the prior marriage of the person he marries is not dissolved; or

(3) Cohabits in this state with a person whom he married outside this state with knowledge that his own prior marriage has not been dissolved or with knowledge that the prior marriage of the person he married has not been dissolved.

Sec. 43. Minnesota Statutes 1974, Section 609.365, is amended to read:

609.365 [INCEST.] Whoever has sexual intercourse with another nearer of kin to him than first cousin, computed by rules of the civil law, whether of the half or the whole blood, with knowledge of the relationship, is guilty of incest and *may shall* be sentenced to imprisonment for ~~not more than ten~~ *four* years.

Sec. 44. Minnesota Statutes 1974, 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 minor child or a pregnant wife continues for a period in excess of 90 days such person is guilty of a felony and *may shall* be sentenced to imprisonment for ~~not more than five~~ *two* years.

Sec. 45. Minnesota Statutes 1974, Section 609.39, is amended to read:

609.39 [MISPRISION OF TREASON.] Whoever, owing allegiance to this state and having knowledge of the commission of treason against this state, does not, as soon as may be, disclose and make known the same to the governor or a judge of the supreme court or of the district court, is guilty of misprision of treason against this state and *may shall* be sentenced to imprisonment for ~~not more than five years or to payment of a fine of not more than \$5,000, or both two years .~~

Sec. 46. Minnesota Statutes 1974, Section 609.395, is amended to read:

609.395 [STATE MILITARY FORCES; INTERFERING WITH, OBSTRUCTING, OR OTHER.] Whoever, when the United States is at war, does either of the following *may shall* be sentenced to imprisonment for ~~not more than 20 years or to payment of a fine of not more than \$20,000, or both eight years :~~

(1) Intentionally makes or conveys false reports or statements with intent to interfere with the operation or success of the military or naval forces of this state; or

(2) Intentionally causes or incites insubordination, disloyalty, mutiny, or refusal of duty in the military or naval forces of this state, or obstructs the recruiting or enlistment service of this state.

Sec. 47. Minnesota Statutes 1974, Section 609.405, Subdivision 2, is amended to read:

Subd. 2. [ACTS PROHIBITED.] Whoever does any of the

following ~~may shall~~ be sentenced to imprisonment for ~~not more than five years or to payment of a fine of not more than \$5,000, or both two years :~~

(1) Orally or by means of writing advocates or promotes the doctrine of criminal syndicalism; or

(2) Intentionally organizes or becomes a member of any assembly, group, or organization which he knows is advocating or promoting the doctrine of criminal syndicalism; or

(3) For or on behalf of another person, distributes, sells, publishes, or publicly displays any writing, which is intended by that person to be used to, and which does, advocate or promote the doctrine of criminal syndicalism.

Sec. 48. Minnesota Statutes 1974, Section 609.42, Subdivision 1, is amended to read:

609.42 [BRIBERY.] Subdivision 1. [ACTS CONSTITUTING.] Whoever does any of the following is guilty of bribery and ~~may shall~~ be sentenced to imprisonment for ~~not more than ten years or to payment of a fine of not more than \$10,000, or both four years :~~

(1) Offers, gives, or promises to give, directly or indirectly, to any public officer or employee any benefit, reward or consideration to which he is not legally entitled with intent thereby to influence such officer or employee with respect to the performance of his powers or duties as such officer or employee; or

(2) Being a public officer or employee, requests, receives or agrees to receive, directly or indirectly, any such benefit, reward or consideration upon the understanding that he will be so influenced; or

(3) Offers, gives, or promises to give, directly or indirectly any such benefit, reward, or consideration to a witness or one who is about to become a witness in a proceeding before a judicial or hearing officer, with intent that his testimony be influenced thereby, or that he will absent himself from the proceeding; or

(4) By any other means induces a witness or one who is about to become a witness to withhold his true testimony or to absent himself from the proceeding; or

(5) Is, or is about to become such witness and requests, receives, or agrees to receive, directly or indirectly, any such benefit, reward, or consideration upon the understanding that his testimony will be so influenced, or that he will absent himself from the proceeding; or

(6) Accepts directly or indirectly a benefit, reward or consideration upon an agreement or understanding, express or implied, that he will refrain from giving information that may lead to the prosecution of a crime or purported crime or that he will abstain from, discontinue, or delay prosecution therefor, except in a case where a compromise is allowed by law.

Sec. 49. Minnesota Statutes 1974, Section 609.425, is amended to read:

609.425 [CORRUPTLY INFLUENCING LEGISLATOR.] Whoever by menace, deception, concealment of facts, or other corrupt means, attempts to influence the vote or other performance of duty of any member of the legislature or person elected thereto *may shall* be sentenced to imprisonment for ~~not more than five years or to payment of a fine of not more than \$5,000, or both two years .~~

Sec. 50. Minnesota Statutes 1974, Section 609.445, is amended to read:

609.445 [FAILURE TO PAY OVER STATE FUNDS.] Whoever receives money on behalf of or for the account of the state or any of its agencies or subdivisions and intentionally refuses or omits to pay the same to the state or its agency or subdivision entitled thereto, or to an officer or agent authorized to receive the same, ~~may shall~~ be sentenced to imprisonment for ~~not more than three years or to payment of a fine of not more than \$3,000, or both one year .~~

Sec. 51. Minnesota Statutes 1974, Section 609.455, is amended to read:

609.455 [PERMITTING FALSE CLAIMS AGAINST GOVERNMENT.] A public officer or employee who audits, allows, or pays any claim or demand made upon the state or subdivision thereof or other governmental instrumentality within the state which he knows is false or fraudulent in whole or in part, ~~may shall~~ be sentenced to imprisonment for ~~not more than five years or to payment of a fine of not more than \$5,000, or both two years .~~

Sec. 52. Minnesota Statutes 1974, Section 609.465, is amended to read:

609.465 [PRESENTING FALSE CLAIMS TO PUBLIC OFFICER OR BODY.] Whoever, with intent to defraud, presents a claim or demand, which to his knowledge is false in whole or in part, for audit, allowance or payment to a public officer or body authorized to make such audit, allowance or payment is guilty of an attempt to commit theft of public funds and ~~may shall~~ be sentenced accordingly.

Sec. 53. Minnesota Statutes 1974, Section 609.48, Subdivision 1, is amended to read:

609.48 [PERJURY.] Subdivision 1. [ACTS CONSTITUTING.] Whoever makes a false material statement which he does not believe to be true in any of the following cases is guilty of perjury and ~~may shall~~ be sentenced as provided in subdivision 4:

(1) In or for an action, hearing or proceeding of any kind in which the statement is required or authorized by law to be made under oath or affirmation; or

(2) In any writing which is required or authorized by law to be under oath or affirmation; or

(3) In any other case in which the penalties for perjury are imposed by law and no specific sentence is otherwise provided.

Sec. 54. Minnesota Statutes 1974, Section 609.48, Subdivision 4, is amended to read:

Subd. 4. [SENTENCE.] Whoever violates this section ~~may~~ *shall* be sentenced as follows:

(1) If the false statement was made upon the trial of a felony charge, or upon an application for an explosives license or use permit, to imprisonment for ~~not more than five years or to payment of a fine of not more than \$5,000, or both two years ; or~~

(2) In all other cases, to imprisonment for ~~not more than three years or to payment of a fine of not more than \$3,000, or both one year .~~

Sec. 55. Minnesota Statutes 1974, Section 609.485, Subdivision 4, is amended to read:

Subd. 4. [SENTENCE.] Whoever violates this section ~~may~~ *shall* be sentenced as follows:

(1) If the person who escapes is in lawful custody on a charge or conviction of a felony, to imprisonment for ~~not more than five years or to payment of a fine of not more than \$5,000, or both two years .~~

(2) If such charge or conviction is for a gross misdemeanor, to imprisonment for not more than one year or to payment of a fine of not more than \$1,000, or both.

(3) If such charge or conviction is for a misdemeanor, to imprisonment for not more than 90 days or to payment of a fine of not more than \$300, or both.

(4) If the escape was effected by violence or threat of violence against a person, the sentence ~~may~~ *shall* be increased to ~~not more than twice those permitted in clauses (1), (2), and (3).~~

(5) Unless a concurrent term is specified by the court, a sentence under this section shall be consecutive to any sentence previously imposed or which may be imposed for any crime or offense for which the person was in custody when he escaped.

Sec. 56. Minnesota Statutes 1974, Section 609.495, Subdivision 1, is amended to read:

609.495 [AIDING AN OFFENDER TO AVOID ARREST.] Subdivision 1. Whoever harbors, conceals or aids another known by him to have committed a felony under the laws of this or another state or of the United States with intent that such offender shall avoid or escape from arrest, trial, conviction, or punishment, ~~may~~ *shall* be sentenced to imprisonment for ~~not more than three years or to payment of a fine of not more than \$3,000, or both one year .~~

Sec. 57. Minnesota Statutes, 1975 Supplement, Section 609.52, Subdivision 2, is amended to read:

Subd. 2. [ACTS CONSTITUTING THEFT.] Whoever does

any of the following commits theft and ~~may~~ *shall* be sentenced as provided in subdivision 3:

(1) Intentionally and without claim of right takes, uses, transfers, conceals or retains possession of movable property of another without his consent and with intent to deprive the owner permanently of possession of the property; or

(2) Having a legal interest in movable property, intentionally and without consent, takes such property out of the possession of a pledgee or other person having a superior right of possession, with intent thereby to deprive the pledgee or other person permanently of the possession of the property; or

(3) Obtains for himself or another the possession, custody or title to property of a third person by intentionally deceiving him with a false representation which is known to be false, made with intent to defraud, and which does defraud the person to whom it is made. "False representation" includes without limitation:

(a) The issuance of a check, draft, or order for the payment of money or the delivery of property knowing that he is not entitled to draw upon the drawee therefor or to order the payment or delivery thereof; or

(b) A promise made with intent not to perform. Failure to perform is not evidence of intent not to perform unless corroborated by other substantial evidence; or

(c) The unauthorized use of a credit card, credit plate, charge plate, or other identification device issued by an organization to a person for use in purchasing goods on credit; or

(4) By swindling, whether by artifice, trick, device, or any other means, obtains property from another person; or

(5) Intentionally commits any of the acts listed in this subdivision but with intent to exercise temporary control only and;

(a) The control exercised manifests an indifference to the rights of the owner or the restoration of the property to him; or

(b) He pledges or otherwise attempts to subject the property to an adverse claim; or

(c) He intends to restore the property only on condition that the owner pay a reward or buy back or make other compensation; or

(6) Finds lost property and, knowing or having reasonable means of ascertaining the true owner, appropriates it to his own use or to that of another not entitled thereto without first having made reasonable effort to find the owner and offer and surrender the property to him; or

(7) Intentionally obtains property or services, offered upon the deposit of a sum of money or tokens in a coin or token operated machine or other receptacle, without making the required deposit or otherwise obtaining the consent of the owner; or

(8) Intentionally and without claim of right converts any article representing a trade secret, knowing it to be such, to his own use or that of another person or makes a copy of an article representing a trade secret, knowing it to be such, and intentionally and without claim of right converts the same to his own use or that of another person. It shall be a complete defense to any prosecution under this clause for the defendant to show that information comprising the trade secret was rightfully known or available to him from a source other than the owner of the trade secret; or

(9) Leases or rents personal property under a written instrument and who with intent to place such property beyond the control of the lessor conceals or aids or abets the concealment of such property or any part thereof, or any lessee of such property who sells, conveys or encumbers such property or any part thereof without the written consent of the lessor, without informing the person to whom he sells, conveys, or encumbers that the same is subject to such lease and with intent to deprive the lessor of possession thereof. Evidence that a lessee used a false or fictitious name or address in obtaining such property or fails or refuses to return such property to lessor within five days after written demand for such return has been served personally in the manner provided for service of process of a civil action or sent by registered or certified mail to the last known address of the lessee, whichever shall occur later, shall be evidence of intent to violate this clause. Service by certified or registered mail shall be deemed to be complete upon deposit in the United States mail of such demand, postpaid and addressed to such person at the address for such person set forth in the lease or rental agreement, or, in the absence of such address, to such person's last known place of residence; or

(10) Alters, removes or obliterates numbers or symbols placed on movable property for purpose of identification by the owner or person who has legal custody or right to possession thereof with the intent to prevent identification, if the person who alters, removes or obliterates the numbers or symbols is not the owner and does not have the permission of the owner to make the alteration, removal or obliteration.

Sec. 58. Minnesota Statutes 1974, Section 609.52, Subdivision 3, is amended to read:

Subd. 3. [SENTENCE.] Whoever commits theft ~~may~~ shall be sentenced as follows:

(1) To imprisonment for ~~not more than ten years or to payment of a fine of not more than \$10,000, or both four years~~, if the value of the property or services stolen exceeds \$2,500; or

(2) To imprisonment for ~~not more than five years or to payment of a fine of not more than \$5,000, or both two years~~, if the value of the property or services is more than \$100 but not more than \$2,500; or

(3) To imprisonment for ~~not more than five years or to pay-~~

~~ment of a fine of not more than \$5,000, or both two years , notwithstanding the value of the property or services is not more than \$100, if any of the following circumstances exist:~~

(a) The property is taken from the person of another or from a corpse, or grave or coffin containing a corpse; or

(b) The property taken is a record of a court or officer, or a writing, instrument or record kept, filed or deposited according to law with or in the keeping of any public officer or office; or

(c) The property is taken from a burning building or upon its removal therefrom, or from an area of destruction caused by civil disaster, riot, bombing, or the proximity of battle; or

(d) The property taken consists of public funds belonging to the state or to any political subdivision or agency thereof; or

~~(4) To imprisonment for not more than ten years or to payment of a fine of not more than \$10,000, or both four years , if the property stolen is an article representing a trade secret; or if the property stolen is an explosive or an incendiary device; or~~

(5) In all other cases where the value of the property or services is \$100 or less, to imprisonment for not more than 90 days or to payment of a fine of not more than \$300, or both, provided, however, in any prosecution under clause (1), clause (2), clause (3) (a) and (c), and clause (4) of subdivision 2 the value of the money or property received by the defendant in violation of any one or more of the above provisions within any six month period may be aggregated and the defendant charged accordingly in applying the provisions of this subdivision; provided that when two or more offenses are committed by the same person in two or more counties, the accused may be prosecuted in any county in which one of the offenses was committed for all of the offenses aggregated under this paragraph.

Sec. 59. Minnesota Statutes, 1975 Supplement, Section 609.521, is amended to read:

609.521 [POSSESSION OF SHOPLIFTING GEAR.] Whoever has in his possession any device, gear, or instrument specially designed to assist in shoplifting with intent to use the same to shoplift and thereby commit theft ~~may shall~~ be sentenced to imprisonment for ~~not more than three years or to payment of a fine of not more than \$3,000, or both one year .~~

Sec. 60. Minnesota Statutes 1974, Section 609.525, Subdivision 1, is amended to read:

609.525 [BRINGING STOLEN GOODS INTO STATE.] Subdivision 1. Whoever brings property into the state which he has stolen outside the state, or received outside of the state knowing it to have been stolen, ~~may shall~~ be sentenced in accordance with the provisions of section 609.52, subdivision 3. He may be charged, indicted, and tried in any county, but not more than one county, into or through which he has brought such property.

Sec. 61. Minnesota Statutes 1974, Section 609.53, Subdivision 1, is amended to read:

609.53 [RECEIVING STOLEN GOODS.] Subdivision 1. Any person who receives, buys or conceals any stolen property or property obtained by robbery, knowing the same to be stolen or obtained by robbery, ~~may~~ *shall* be sentenced as follows:

(1) If the value of the property received, bought or concealed is \$100 or more, to imprisonment for ~~not more than ten years or to payment of a fine of not more than \$10,000, or both four years ;~~

(2) If the value of the property received, bought or concealed is less than \$100, to punishment as a misdemeanor.

Sec. 62. Minnesota Statutes 1974, Section 609.53, Subdivision 3, is amended to read:

Subd. 3. Any person convicted of a second or subsequent violation under subdivision 2 within a period of one year ~~may~~ *shall* be sentenced as provided in subdivision 1, clause (1).

Sec. 63. Minnesota Statutes 1974, Section 609.54, is amended to read:

609.54 [EMBEZZLEMENT OF PUBLIC FUNDS.] Whoever does an act which constitutes embezzlement under the provisions of Minnesota Constitution, Article IX, Section 12 ~~may~~ *shall* be sentenced as follows:

(1) If the value of the funds so embezzled is \$2,500, or less, to imprisonment for ~~not more than five years or to payment of a fine of not more than \$5,000, or both two years ;~~ or

(2) If such value is more than \$2,500, to imprisonment for ~~not more than ten years or to payment of a fine of not more than \$10,000, or both four years .~~

Sec. 64. Minnesota Statutes 1974, Section 609.55, Subdivision 2, is amended to read:

Subd. 2. [ACTS CONSTITUTING.] Whoever intentionally takes or drives a motor vehicle without the consent of the owner or his authorized agent ~~may~~ *shall* be sentenced to imprisonment for ~~not more than three years or to payment of a fine of not more than \$3,000, or both one year .~~

Sec. 65. Minnesota Statutes, 1975 Supplement, Section 609.551, Subdivision 1, is amended to read:

609.551 [RUSTLING AND LIVESTOCK THEFT; PENALTIES.] Subdivision 1. Whoever intentionally and without claim of right shoots, kills, takes, uses, transfers, conceals or retains possession of live cattle, swine or sheep or the carcasses thereof belonging to another without his consent and with the intent to permanently deprive the owner thereof ~~may~~ *shall* be sentenced as follows:

(a) If the value of the animals which are shot, killed, taken, used, transferred, concealed or retained exceeds \$2,500, the defen-

dant *may shall* be sentenced to imprisonment for ~~not more than ten four~~ years ; and ~~may be fined up to \$10,000~~ ;

(b) If the value of the animals which are shot, killed, taken, used, transferred, concealed or retained exceeds \$100 but is less than \$2,500, the defendant *may shall* be sentenced to imprisonment for ~~not more than five two~~ years ; and ~~may be fined up to \$5,000~~ ;

(c) If the value of the animals which are shot, killed, taken, used, transferred, concealed, or retained is \$100 or less, the defendant may be sentenced to imprisonment for not more than 90 days or to payment of a fine of not more than \$300 or both.

Sec. 66. Minnesota Statutes 1974, Section 609.56, is amended to read:

609.56 [AGGRAVATED ARSON.] Whoever, by means of fire or explosives, intentionally destroys or damages a dwelling house or other property, real or personal, whether his own or that of another, and thereby creates an imminent danger to life or risk of great bodily harm commits aggravated arson and *may shall* be sentenced to imprisonment for ~~not more than 25 years or to payment of a fine of not more than \$25,000, or both ten~~ years if the danger or risk was known or reasonably foreseeable.

Sec. 67. Minnesota Statutes 1974, Section 609.565, is amended to read:

609.565 [SIMPLE ARSON.] Whoever, by means of fire or explosives, intentionally damages or destroys any property of another without his consent is guilty of simple arson, if the act does not constitute aggravated arson, and *may shall* be sentenced as follows:

(1) To imprisonment for ~~not more than five years or to payment of a fine of not more than \$5,000, or both two~~ years , if:

(a) The property intended by the actor to be damaged or destroyed had a value of \$100 or more; or

(b) Property of the value of \$100 or more was unintentionally damaged or destroyed but such damage or destruction could reasonably have been foreseen; or

(c) The property specified in clauses (a) and (b) in the aggregate had a value of \$100 or more; or

(2) To imprisonment for not more than 90 days or to payment of a fine of not more than \$300, or both in all other cases.

Sec. 68. Minnesota Statutes 1974, Section 609.58, Subdivision 2, is amended to read:

Subd. 2. [ACTS CONSTITUTING.] Whoever enters a building without the consent of the person in lawful possession, with intent to commit a crime therein, or whoever remains within a building without the consent of the person in lawful authority, with intent

to commit a crime therein, commits burglary and may *shall* be sentenced as follows:

(1) To imprisonment for ~~not more than 20 years~~ or to payment of a fine of ~~not more than \$20,000~~, or both *eight years*, if:

(a) When entering or while in the building, he possesses an explosive or tool to gain access to money or property; or

(b) The building entered is a dwelling and he possesses a dangerous weapon when entering or while in the building or he commits an assault upon a person present therein; or

(c) The portion of the building entered contains a banking business or other business of receiving securities or other valuable papers for deposit or safekeeping, the entry is with force or threat of force, the intent is to steal or commit a felony therein.

(2) To imprisonment for ~~not more than ten years~~ or to payment of a fine of ~~not more than \$10,000~~, or both *four years*, if the building entered is a dwelling and another person not an accomplice is present therein.

(3) In any other case, to imprisonment for ~~not more than five years~~ or to payment of a fine of ~~not more than \$5,000~~, or both *two years*, if the intent is to steal or commit a felony or gross misdemeanor or to imprisonment for not more than one year or to payment of a fine of not more than \$1,000, or both, if the intent is to commit a misdemeanor.

Sec. 69. Minnesota Statutes 1974, Section 609.59, is amended to read:

609.59 [POSSESSION OF BURGLARY TOOLS.] Whoever has in his possession any device, explosive, or other instrumentality with intent to use or permit the use of the same to commit burglary may *shall* be sentenced to imprisonment for ~~not more than three years~~ or to payment of a fine of ~~not more than \$3,000~~, or both *one year*.

Sec. 70. Minnesota Statutes 1974, Section 609.595, Subdivision 1, is amended to read:

609.595 [DAMAGE TO PROPERTY.] Subdivision 1. [AGGRAVATED CRIMINAL DAMAGE TO PROPERTY.] Whoever intentionally causes damage to physical property of another without the latter's consent may *shall* be sentenced to imprisonment for ~~not more than five years~~ or to payment of a fine of ~~not more than \$5,000~~, or both *two years*, if:

(1) The damage to the property caused a reasonably foreseeable risk of bodily harm; or

(2) The property damaged belongs to a public utility or a common carrier and the damage impairs the service to the public rendered by them; or

(3) The damage reduces the value of the property by more

than \$100 measured by the cost of repair or replacement, whichever is less.

Sec. 71. Minnesota Statutes 1974, Section 609.60, is amended to read:

609.60 [DANGEROUS TRESPASSES AND OTHER ACTS.] Whoever intentionally does any of the following is guilty of a misdemeanor; except, if to his knowledge a risk of death or bodily harm or serious property damage is thereby created, he ~~may shall~~ be sentenced to imprisonment for ~~not more than five years or to payment of a fine of not more than \$5,000, or both two years :~~

(1) Smokes in the presence of explosives or inflammable materials; or

(2) Interferes with or obstructs the prevention or extinguishing of any fire, or disobeys the lawful orders of a law enforcement officer or fireman present at the fire; or

(3) Shows a false light or signal or interferes with any light, signal, or sign controlling or guiding traffic upon a highway, railway track, navigable waters, or in the air; or

(4) Places an obstruction upon a railroad track; or

(5) Exposes another or his property to an obnoxious or harmful gas, fluid or substance, with intent to injure, molest, or coerce.

Sec. 72. Minnesota Statutes 1974, Section 609.61, is amended to read:

609.61 [DEFRAUDING INSURER.] Whoever burns, destroys, or otherwise damages any property with intent to defraud an insurer of that property, when aggravated arson is not committed thereby, ~~may shall~~ be sentenced to imprisonment for ~~not more than three years or to payment of a fine of not more than \$3,000, or both one year .~~

Sec. 73. Minnesota Statutes 1974, Section 609.615, is amended to read:

609.615 [DEFEATING SECURITY ON REALTY.] Whoever removes or damages real property which is subject to a mortgage, mechanic's lien, or contract for deed, with intent to impair the value of the security, without the consent of the security holder, ~~may shall~~ be sentenced as follows:

(1) If the value of the property is impaired by \$100 or less, to imprisonment for not more than 90 days or to payment of a fine of not more than \$300, or both; or

(2) If the value of the property is impaired by more than \$100, to imprisonment for ~~not more than five years or to payment of a fine of not more than \$5,000, or both two years .~~

Sec. 74. Minnesota Statutes 1974, Section 609.62, Subdivision 2, is amended to read:

Subd. 2. [ACTS CONSTITUTING.] Whoever, with intent to defraud, does any of the following ~~may shall~~ be sentenced to imprisonment for ~~not more than two years or to payment of a fine of not more than \$2,000, or both one year :~~

(1) Conceals, removes, or transfers any personal property in which he knows that another has a security interest; or

(2) Being an obligor and knowing the location of the property refuses to disclose the same to an obligee entitled to possession thereof.

Sec. 75. Minnesota Statutes 1974, Section 609.625, is amended to read:

609.625 [AGGRAVATED FORGERY.] Subdivision 1. [MAKING OR ALTERING WRITING OR OBJECT.] Whoever, with intent to defraud, falsely makes or alters a writing or object of any of the following kinds so that it purports to have been made by another or by himself under an assumed or fictitious name, or at another time, or with different provisions, or by authority of one who did not give such authority, is guilty of aggravated forgery and ~~may shall~~ be sentenced to imprisonment for ~~not more than ten years or to payment of a fine of not more than \$10,000, or both four years :~~

(1) A writing or object whereby, when genuine, legal rights, privileges, or obligations are created, terminated, transferred, or evidenced, or any writing normally relied upon as evidence of debt or property rights; or

(2) An official seal or the seal of a corporation; or

(3) A public record or an official authentication or certification of a copy thereof; or

(4) An official return or certificate entitled to be received as evidence of its contents; or

(5) A court order, judgment, decree, or process; or

(6) The records or accounts of a public body, office, or officer; or

(7) The records or accounts of a bank or person, with whom funds of the state or any of its agencies or subdivisions are deposited or entrusted, relating to such funds.

Subd. 2. [MEANS FOR FALSE REPRODUCTION.] Whoever, with intent to defraud, makes, engraves, possesses or transfers a plate or instrument for the false reproduction of a writing or object mentioned in subdivision 1 ~~may shall~~ be sentenced as provided in subdivision 1.

Subd. 3. [UTTERING OR POSSESSING.] Whoever, with intent to defraud, utters or possesses with intent to utter any forged writing or object mentioned in subdivision 1, knowing it to have been so forged, ~~may shall~~ be sentenced as provided in subdivision 1.

Sec. 76. Minnesota Statutes 1974, Section 609.63, is amended to read:

609.63 [FORGERY.] Subdivision 1. Whoever, with intent to injure or defraud, does any of the following is guilty of forgery and ~~may shall~~ be sentenced to imprisonment for ~~not more than three years or to payment of a fine of not more than \$3,000, or both one year :~~

(1) Uses a false writing, knowing it to be false, for the purpose of identification or recommendation; or

(2) Without consent, places, or possesses with intent to place, upon any merchandise an identifying label or stamp which is or purports to be that of another craftsman, tradesman, packer, or manufacturer, or disposes or possesses with intent to dispose of any merchandise so labeled or stamped; or

(3) Falsely makes or alters a membership card purporting to be that of a fraternal, business, professional, or other association, or of any labor union, or possesses any such card knowing it to have been thus falsely made or altered; or

(4) Falsely makes or alters a writing, or possesses a falsely made or altered writing, evidencing a right to transportation on a common carrier; or

(5) Destroys, mutilates, or by alteration, false entry or omission, falsifies any record, account, or other document relating to a private business; or

(6) Without authority of law, destroys, mutilates, or by alteration, false entry, or omission, falsifies any record, account, or other document relating to a person, corporation, or business, or filed in the office of, or deposited with, any public office or officer; or

(7) Destroys a writing or object to prevent it from being produced at a trial, hearing, or other proceeding authorized by law.

Subd. 2. Whoever, with knowledge that it is forged, offers in evidence in any trial, hearing or other proceedings authorized by law, as genuine, any forged writing or object ~~may shall~~ be sentenced as follows:

(1) If the writing or object is offered in evidence in the trial of a felony charge, to imprisonment for ~~not more than five years or to payment of a fine of not more than \$5,000, or both two years ; or~~

(2) In all other cases, to imprisonment for ~~not more than three years or to payment of a fine of not more than \$3,000, or both one year .~~

Sec. 77. Minnesota Statutes 1974, Section 609.635, is amended to read:

609.635 [OBTAINING SIGNATURE BY FALSE PRETENSE.] Whoever, by false pretense, obtains the signature of

another to a writing which is a subject of forgery under section 609.625, subdivision 1, *may shall* be punished as therein provided.

Sec. 78. Minnesota Statutes 1974, Section 609.64, is amended to read:

609.64 [RECORDING, FILING OF FORGED INSTRUMENT.] Whoever intentionally presents for filing, registering, or recording, or files, registers, or records a false or forged instrument relating to or affecting real or personal property in a public office entitled to file, register, or record such instrument when genuine *may shall* be sentenced to imprisonment for ~~not more than three years or to payment of a fine of not more than \$3,000, or both one year~~.

Sec. 79. Minnesota Statutes 1974, Section 609.645, is amended to read:

609.645 [FRAUDULENT STATEMENTS.] Whoever, with intent to injure or defraud, does any of the following *may shall* be sentenced to imprisonment for ~~not more than three years or to payment of a fine of not more than \$3,000, or both one year~~ :

(1) Circulates or publishes a false statement, oral or written, relating to a corporation, association, or individual, intending thereby to give a false apparent value to securities issued or to be issued by, or to the property of, such corporation, association, or individual; or

(2) Makes a false ship's or airplane's manifest, invoice, register, or protest.

Sec. 80. Minnesota Statutes 1974, Section 609.65, is amended to read:

609.65 [FALSE CERTIFICATION BY NOTARY PUBLIC.] Whoever, when acting or purporting to act as a notary public or other public officer, certifies falsely that an instrument has been acknowledged or that any other act was performed by a party appearing before him or that as such notary public or other public officer he performed any other official act *may shall* be sentenced as follows:

(1) If he so certifies with intent to injure or defraud, to imprisonment for ~~not more than three years or to payment of a fine of not more than \$3,000, or both one year~~ ; or

(2) In any other case, to imprisonment for not more than 90 days or to payment of a fine of not more than \$300, or both.

Sec. 81. Minnesota Statutes 1974, Section 609.67, Subdivision 2, is amended to read:

Subd. 2. [ACTS PROHIBITED.] Except as otherwise provided herein, whoever owns, possesses, or operates a machine gun *may shall* be sentenced to imprisonment for ~~not more than five years or to payment of a fine of not more than \$5,000, or both two years~~ .

Sec. 82. Minnesota Statutes 1974, Section 609.71, is amended to read:

609.71 [RIOT.] When three or more persons assembled disturb

the public peace by an intentional act or threat of unlawful force or violence to person or property, each participant therein is guilty of riot and may be sentenced to imprisonment for not more than one year or to payment of a fine of not more than \$1,000, or both, or, if the offender, or to his knowledge any other participant, is armed with a dangerous weapon or is disguised, *he shall be sentenced to imprisonment for not more than five years or to payment of a fine of not more than \$5,000, or both two years.*

Sec. 83. Minnesota Statutes 1974, Section 609.713, is amended to read:

609.713 [TERRORISTIC THREATS.] Subdivision 1. Whoever threatens to commit any crime of violence with purpose to terrorize another or to cause evacuation of a building, place of assembly or facility of public transportation or otherwise to cause serious public inconvenience, or in a reckless disregard of the risk of causing such terror or inconvenience *may shall* be sentenced to imprisonment for ~~not more than five years~~ *two years.*

Subd. 2. Whoever communicates to another with purpose to terrorize another or in reckless disregard of the risk of causing such terror, that explosives or an explosive device or any incendiary device is present at a named place or location, whether or not the same is in fact present, *may shall* be sentenced to imprisonment for ~~not more than three years~~ *one year.*

Sec. 84. Minnesota Statutes 1974, Section 609.785, is amended to read:

609.785 [FRAUDULENT LONG DISTANCE TELEPHONE CALLS.] Whoever obtains long distance telephone service by intentionally requesting of the operator that the cost thereof be charged to a false or non-existent telephone or credit card number or to the telephone or credit card number of another without his authority may be sentenced to imprisonment for not more than 90 days or to payment of a fine of not more than \$300, or both, when the value of the telephone service obtained is not more than \$100; and *shall be sentenced by* imprisonment for ~~not more than five years or to payment of a fine of not more than \$5,000, or both two years~~, if the value of the telephone service obtained in a single transaction, or in separate transactions within any six month period, is more than \$100.

Sec. 85. Minnesota Statutes 1974, Section 609.82, is amended to read:

609.82 [FRAUD IN OBTAINING CREDIT.] Whoever, with intent to defraud, obtains credit for himself or another from a bank, trust company, savings or building and loan association, or credit union, by means of a present or past false representation as to his or another's financial ability may be sentenced as follows:

(1) If no money or property is obtained by the defendant by means of such credit, to imprisonment for not more than 90 days or to payment of a fine of not more than \$300, or both; or

(2) If money or property is so obtained, the value thereof

shall be determined as provided in section 609.52, subdivision 1, clause (3) and he ~~may~~ *shall* be sentenced as provided in section 609.52, subdivision 3.

Sec. 86. Minnesota Statutes 1974, Section 609.825, Subdivision 2, is amended to read:

Subd. 2. [ACTS PROHIBITED.] Whoever does any of the following ~~may~~ *shall* be sentenced to imprisonment for ~~not more than five years or to payment of a fine of not more than \$5,000, or both two years :~~

(1) Offers, gives, or agrees to give, directly or indirectly, any benefit, reward or consideration to a participant, manager, director, or other official, or to one who intends to become such participant or official, in any sporting event, race or other contest of any kind whatsoever with intent thereby to influence such participant not to use his best effort to win or enable his team to win or to attain a maximum score or margin of victory, or to influence such official in his decisions with respect to such contest; or

(2) Requests, receives, or agrees to receive, directly or indirectly, any benefit, reward or consideration upon the understanding that he will be so influenced as such participant or official.

Sec. 87. Minnesota Statutes 1974, Section 609.83, is amended to read:

609.83 [FALSELY IMPERSONATING ANOTHER.] Whoever does either of the following ~~may~~ *shall* be sentenced to imprisonment for ~~not more than five years or to payment of a fine of not more than \$5,000, or both two years :~~

(1) Assumes to enter into a marriage relationship with another by falsely impersonating a third person; or

(2) By falsely impersonating another with intent to defraud him or a third person, appears, participates, or executes an instrument to be used in a judicial proceeding.

Sec. 88. [EFFECTIVE DATE.] *Sections 1 to 91 are effective January 1, 1977, except as specifically provided in section 9.*

Sec. 89. *In the next and subsequent editions of the Minnesota Statutes the revisor of statutes shall make such changes in terminology as may be necessary to record the functions, powers and duties of the commissioner of corrections as established by this act.*

Sec. 90. *The sum of \$ is appropriated to the commissioner of corrections from the general fund for the purpose of implementing the provisions of this act for the biennium beginning July 1, 1975. Notwithstanding Minnesota Statutes, Section 16A.28 or other law this appropriation shall not lapse until July 1, 1977.*

Sec. 91. [REPEALER.] *Minnesota Statutes 1974, Sections 246.43; 609.11, as amended by Laws 1975, Chapter 378, Section 8;*

609.13, Subdivision 1; 609.155; and 609.16, are repealed effective for persons sentenced after December 31, 1976. Sections 241.045, as amended by Laws 1975, Chapters 61, Section 4, and 304, Section 3; and 242.24 are repealed effective for persons sentenced after December 31, 1978. "

Further, strike the title in its entirety and insert:

"A bill for an act relating to corrections; sentencing and post conviction disposition of criminal offenders; transferring the powers and duties of the Minnesota corrections authority to the commissioner of corrections; abolishing the Minnesota corrections authority; providing for determinate sentencing; providing for a mutual agreement program; appropriating money; amending Minnesota Statutes 1974, Sections 152.15; 609.02, Subdivision 8; 609.03; 609.10; 609.135, Subdivision 1; 609.145, Subdivision 1; 609.165, Subdivision 2; 609.17, Subdivision 4; 609.175, Subdivision 2; 609.19; 609.195; 609.20; 609.205; 609.21; 609.215; 609.225; 609.235; 609.24; 609.245; 609.25, Subdivision 2; 609.255; 609.26; 609.27, Subdivision 2; 609.293, Subdivisions 2, 3 and 4; 609.31; 609.32; 609.355, Subdivision 2; 609.365; 609.375, Subdivision 2; 609.39; 609.395; 609.405, Subdivision 2; 609.42, Subdivision 1; 609.425; 609.445; 609.455; 609.465; 609.48, Subdivisions 1 and 4; 609.485, Subdivision 4; 609.495, Subdivision 1; 609.52, Subdivision 3; 609.525, Subdivision 1; 609.53, Subdivisions 1 and 3; 609.54; 609.55, Subdivision 2; 609.56; 609.565; 609.58, Subdivision 2; 609.59; 609.595, Subdivision 1; 609.60; 609.61; 609.615; 609.62, Subdivision 2; 609.625; 609.63; 609.635; 609.64; 609.645; 609.65; 609.67, Subdivision 2; 609.71; 609.713; 609.785; 609.82; 609.825, Subdivision 2; 609.83; Minnesota Statutes, 1975 Supplement, Sections 609.185; 609.342; 609.343; 609.344; 609.345; 609.52, Subdivision 2; 609.521; and 609.551, Subdivision 1; repealing Minnesota Statutes 1974, Sections 241.045, as amended; 242.24; 246.43; 609.11, as amended; 609.13, Subdivision 1; 609.155; and 609.16."

And when so amended the bill do pass and be re-referred to the Committee on Judiciary. Amendments adopted. Report adopted.

Mr. Coleman from the Committee on Rules and Administration, to which were referred

H. F. Nos. 1226, 1302, 955 and 1376 for proper reference, recommends the above House Files be re-referred to their respective Committees as follows:

H. F. No. 955 to the Committee on Judiciary.

H. F. Nos. 1302 and 1376 to the Committee on Labor and Commerce.

H. F. No. 1226 to the Committee on Transportation and General Legislation.

Pursuant to Rule 49, this report was prepared and submitted by the Secretary of the Senate on behalf of the Committee on Rules and Administration. Report adopted.

SECOND READING OF SENATE BILLS

S. F. Nos. 998, 1805, 1736, 687 and 1636 were read the second time.

SECOND READING OF HOUSE BILLS

H. F. No. 447 was read the second time.

MOTIONS AND RESOLUTIONS

Mr. Coleman moved that the Senate do now adjourn until 10:00 o'clock a.m., Thursday, February 5, 1976. The motion prevailed.

Patrick E. Flahaven, Secretary of the Senate