

FORTY-THIRD DAY

St. Paul, Minnesota, Tuesday, April 23, 1985

The Senate met at 1:00 p.m. and was called to order by the President.

Prayer was offered by the Chaplain, Rev. Roger A. Davis.

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

Adkins	Diessner	Knutson	Novak	Schmitz
Anderson	Dieterich	Kroening	Olson	Sieloff
Belanger	Frank	Kronebusch	Pehler	Solon
Benson	Frederick	Laidig	Peterson, C.C.	Spear
Berg	Frederickson	Langseth	Peterson, D.C.	Storm
Berglin	Freeman	Lantry	Peterson, D.L.	Stumpf
Bernhagen	Gustafson	Lessard	Peterson, R.W.	Taylor
Bertram	Hughes	Luther	Petty	Vega
Brataas	Isackson	McQuaid	Pogemiller	Waldorf
Chmielewski	Johnson, D.E.	Mehrken	Purfeerst	Wegscheid
Dahl	Johnson, D.J.	Merriam	Ramstad	Willet
Davis	Jude	Moe, D.M.	Reichgott	
DeCramer	Kamrath	Moe, R.D.	Renneke	
Dicklich	Knaak	Nelson	Samuelson	

The President declared a quorum present.

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

EXECUTIVE AND OFFICIAL COMMUNICATIONS

The following communications were received and referred to the committee indicated.

April 15, 1985

The Honorable Jerome M. Hughes
President of the Senate

Dear Sir:

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

Ruth K. Plotnicky, 5525 Kellogg Ave., Edina, Hennepin County, has been appointed by me, effective April 17, 1985, for a term expiring the first Monday in January, 1986.

(Referred to the Committee on Judiciary.)

Sincerely,

Rudy Perpich, Governor

April 19, 1985

The Honorable David Jennings
Speaker of the House of Representatives

The Honorable Jerome M. Hughes
President of the Senate

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

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

Sincerely,

Joan Anderson Growe
Secretary of State

MESSAGES FROM THE HOUSE

Mr. President:

I have the honor to announce the passage by the House of the following Senate Files, herewith returned: S.F. Nos. 46, 379, 437, 1231 and 625.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned April 22, 1985

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. 118: A bill for an act relating to public employee labor relations; regulating public employee mediation; regulating mediation and strikes concerning teachers; providing for arbitration awards in principal and assistant principal disputes; providing penalties; amending Minnesota Statutes 1984, sections 179A.14, subdivision 1; 179A.15; 179A.16, subdivision 7; 179A.17, subdivision 1; 179A.18, subdivisions 2 and 3; and 179A.20, subdivision 3.

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

Svigum, McPherson and Nelson, K.

Senate File No. 118 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned April 22, 1985

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. 70: A bill for an act relating to real property; local and metropolitan government; transportation; providing for acquisition and relocation assistance in cases of hardship to owners of homestead property located in a proposed state highway corridor; amending Minnesota Statutes 1984, section 473.167, subdivision 3, and by adding a subdivision.

Senate File No. 70 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned April 22, 1985

CONCURRENCE AND REPASSAGE

Mr. Schmitz moved that the Senate concur in the amendments by the House to S.F. No. 70 and that the bill be placed on its repassage as amended. The motion prevailed.

S.F. No. 70: A bill for an act relating to real property; local and metropolitan government; transportation; providing for acquisition and relocation assistance in cases of hardship to owners of homestead property located in a proposed state highway right-of-way; amending Minnesota Statutes 1984, section 473.167, subdivision 3, and by adding a subdivision.

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

The question was taken on the repassage of the bill, as amended.

The roll was called, and there were yeas 55 and nays 0, as follows:

Those who voted in the affirmative were:

Adkins	DeCramer	Jude	Merriam	Samuelson
Anderson	Diessner	Kamrath	Moe, R. D.	Schmitz
Belanger	Dieterich	Knaak	Nelson	Sieloff
Benson	Frank	Knutson	Olson	Spear
Berg	Frederickson	Kronebusch	Peterson, D.C.	Storm
Berglin	Freeman	Laidig	Peterson, D.L.	Stumpf
Bertram	Gustafson	Langseth	Peterson, R.W.	Taylor
Brataas	Hughes	Lantry	Petty	Vega
Chmielewski	Isackson	Lessard	Pogemiller	Waldorf
Dahl	Johnson, D.E.	Luther	Ramstad	Wegscheid
Davis	Johnson, D.J.	McQuaid	Reichgott	Willet

So the bill, as amended, 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. 399, 418, 863, 1570, 823, 886,

1113, 1374, 449, 507, 558, 368 and 450.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted April 22, 1985

FIRST READING OF HOUSE BILLS

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

H.F. No. 399: A bill for an act relating to education; the permanent school fund; requiring exchange for land in state parks and waysides; requiring an inventory of other permanent school fund lands; stating the goal of the permanent school fund; proposing coding for new law in Minnesota Statutes, chapters 92 and 120.

Referred to the Committee on Rules and Administration for comparison with S.F. No. 377, now on General Orders.

H.F. No. 418: A bill for an act relating to local government; excluding firefighter and peace officer job classes from certain aspects of pay equity requirements; amending Minnesota Statutes 1984, section 179A.16, by adding a subdivision; 471.992; 471.993, by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapter 471; repealing Minnesota Statutes 1984, section 471.9965.

Referred to the Committee on Rules and Administration for comparison with S.F. No. 438, now on General Orders.

H.F. No. 863: A bill for an act relating to transportation; specifying the method of payment for landscape contractors providing goods or services to the department of transportation; amending Minnesota Statutes 1984, section 161.32, by adding a subdivision.

Referred to the Committee on Rules and Administration for comparison with S.F. No. 833, now on General Orders.

H.F. No. 1570: A bill for an act relating to agriculture; creating an exception to the corporate farming law; amending Minnesota Statutes 1984, section 500.24, subdivision 3.

Referred to the Committee on Rules and Administration for comparison with S.F. No. 1197, now on General Orders.

H.F. No. 823: A bill for an act relating to Ramsey county; placing the position of law clerk investigator and law clerks in the unclassified service; amending Minnesota Statutes 1984, section 383A.29, subdivision 6.

Referred to the Committee on Local and Urban Government.

H.F. No. 886: A resolution memorializing the governments of the United States and Sweden that the State of Minnesota adopts the County of Kronoberg as a sister state.

Referred to the Committee on Rules and Administration for comparison with S.F. No. 1057, now on General Orders.

H.F. No. 1113: A bill for an act relating to state lands; authorizing con-

veyance by commissioner of transportation of certain state lands for historical preservation purposes.

Referred to the Committee on Rules and Administration for comparison with S.F. No. 795, now on General Orders.

H.F. No. 1374: A bill for an act relating to mines and minerals; prescribing fencing of unused mine pits and shafts; providing exceptions to tort liability in regard to certain water access sites related to mining areas; providing for a study and report; providing penalties; amending Minnesota Statutes 1984, sections 3.736, subdivision 3; 180.03, subdivisions 2, 3, and 4; 180.10; and 466.03, by adding a subdivision.

Referred to the Committee on Agriculture and Natural Resources.

H.F. No. 449: A bill for an act relating to attachments; providing procedures for the prejudgment seizure of property; amending Minnesota Statutes 1984, sections 570.01; 570.02; 570.08; 570.11; 570.12; and 570.14; repealing Minnesota Statutes 1984, sections 570.013; 570.03; 570.04; 570.05; 570.06; 570.07; 570.09; 570.093; and 570.13; proposing coding for new law in Minnesota Statutes, chapter 570.

Referred to the Committee on Rules and Administration for comparison with S.F. No. 591.

H.F. No. 507: A bill for an act relating to Hennepin county; setting the form in which county board members' salaries must be stated; amending Laws 1982, chapter 577, section 14.

Referred to the Committee on Rules and Administration for comparison with S.F. No. 536, now on General Orders.

H.F. No. 558: A bill for an act relating to metropolitan government; providing conditions for the disposal of certain sports facilities property; requiring the metropolitan mosquito control district to establish a research program to evaluate the effects of its control program on other fauna; amending Minnesota Statutes 1984, sections 473.556, subdivision 6; and 473.704, by adding a subdivision.

Referred to the Committee on Rules and Administration for comparison with S.F. No. 541, now on General Orders.

H.F. No. 368: A bill for an act relating to crimes; requiring notice of dishonor for issuing a worthless check to cite laws creating civil and criminal liability; amending Minnesota Statutes 1984, sections 332.50, subdivisions 2 and 3; and 609.535, subdivision 3.

Referred to the Committee on Rules and Administration for comparison with S.F. No. 1037, now on General Orders.

H.F. No. 450: A bill for an act relating to children; replacing the state election campaign fund with a child abuse prevention trust fund; providing for disbursement of funds for child abuse prevention; creating a tax return checkoff to fund the child abuse prevention trust fund; appropriating money; amending Minnesota Statutes 1984, sections 10A.25, subdivision 10, and by adding a subdivision; 290.06, subdivision 11; and 290.39, subdivision 3; proposing coding for new law in Minnesota Statutes, chapters 257 and 290; repealing Minnesota Statutes 1984, sections 10A.30 to 10A.335.

Referred to the Committee on Taxes and Tax Laws.

REPORTS OF COMMITTEES

Mr. Moe, R.D. moved that the Committee Reports at the Desk be now adopted, with the exception of reports pertaining to appointments. The motion prevailed.

Mr. Merriam from the Committee on Agriculture and Natural Resources, to which was referred

S.F. No. 723: A bill for an act relating to game and fish; enhancement of fish and wildlife; planning and implementation of wildlife management; conservation of marginal agricultural lands; habitat management; aspen recycling program; appropriating money; amending Minnesota Statutes 1984, sections 97.49, subdivision 3; 97.55, subdivision 16; 290.421, subdivision 5; and 290.431; proposing coding for new law in Minnesota Statutes, chapters 40, 84, and 88.

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

Delete everything after the enacting clause and insert:

“Section 1. [40.41] [DEFINITIONS.]

Subdivision 1. [APPLICABILITY.] The definitions in this section apply to sections 1 to 4.

Subd. 2. [COMMISSIONER.] “Commissioner” means the commissioner of agriculture.

Subd. 3. [MARGINAL AGRICULTURAL LAND.] “Marginal agricultural land” means erosive land that is composed of class IIIe, IVe, V, VI, VII, or VIII soil, as identified in the land capability classification system of the United States department of agriculture and the county soil survey.

Sec. 2. [40.43] [CONSERVATION RESERVE PROGRAM.]

Subdivision 1. [AUTHORITY.] The commissioner may contract with landowners for the conservation of marginal agricultural land. The contracts must be for a period of five to ten years with provision for renewal for an additional five to ten year period. The commissioner may adjust payment rates for a renewal period after examining the condition of the established cover, land values, and crop values. A contract may not provide for payment of more than \$10,000 to a landowner in any year. Contracts under this section are exempt from contractual provisions of chapter 16B.

Subd. 2. [ELIGIBLE LAND.] Land may be placed in the conservation reserve program if the land:

(1) is marginal agricultural land;

(2) is privately owned;

(3) is not currently set aside or diverted under another federal or state government program; and

(4) has been in crop production or rotation pasture in at least two of the prior five years.

Subd. 3. [LANDOWNER'S AGREEMENT.] (a) The contract must require the landowner:

(1) to place marginal agricultural land in the program for the period of the contract;

(2) not to place more than 20 percent of the landowner's total acreage within the state in the program, unless the land has previously been in a conservation program approved by the commissioner;

(3) to seed the land by the date specified in the contract and establish and maintain a continuous cover either of a grass-legume mixture or of native grasses for the term of the contract at seeding rates determined by the commissioner, and, if required by the commissioner, to plant trees on the land;

(4) not to burn, fill, impair, or destroy the wildlife habitat and other natural features of the land;

(5) not to use the land for agricultural crop production purposes as determined by the commissioner;

(6) to prevent livestock from grazing on land in the program, unless a severe drought or other natural disaster has occurred and the approval of the commissioner is obtained after the commissioner has consulted with the commissioner of natural resources;

(7) not to conduct chemical spraying or mowing, except for spot weed control necessary to comply with noxious weed control laws or emergency control of pests necessary to protect public health;

(8) not to convert other wetlands, woodlots, shelterbelts, windbreaks, brushlands, native prairie, or wild hay land that has not been in crop production and is a part of the same farm operation to the production of wheat, corn, oats, barley, soybeans, grain or cane sorghum, sugar beets, forage crops, or pasture during the term of the contract;

(9) to forfeit all rights to further payments and to refund to the state all payments received under the contract if the contract is violated and the commissioner determines that the violation warrants termination of the contract; and

(10) to comply with additional provisions required by the commissioner.

(b) The commissioner may require that the landowner make refunds or accept payment adjustments if the commissioner determines that a violation by the landowner does not warrant termination of the contract.

Subd. 4. [COMMISSIONER'S AGREEMENT.] The commissioner must:

(1) make a payment to the landowner to establish the cover crop required by the contract in an amount up to \$75 per acre as determined by the commissioner;

(2) make a payment to the landowner to pay the cost of planting trees required by the contract in an amount up to \$75 per acre;

(3) make annual payments to the landowner for the period of the contract at

a rate equal to five percent of the most recent fair market value of the land in the program, as established by the county assessor; and

(4) provide advice about soil and water conservation through the local soil and water conservation district in cooperation with field personnel of the department of natural resources.

Subd. 5. [CONTRACT RENEWAL.] A contract may be renewed at the end of the contract period for an additional period of five to ten years by mutual agreement of the commissioner and the landowner, subject to a rate adjustment by the commissioner. If the landowner sells or otherwise transfers the ownership or right of occupancy of the land during the contract period, the new landowner is subject to the original contract unless a new contract is entered.

Subd. 6. [CONTRACT TERMINATION.] The commissioner may terminate a contract by mutual agreement with the owner if the commissioner determines that the termination would be in the public interest. The commissioner may agree to a modification of a contract that is necessary to carry out the purposes of the program or facilitate its administration.

Sec. 3. [40.45] [COOPERATION AND TECHNICAL ASSISTANCE.]

Subdivision 1. [COOPERATION.] In implementing section 2, the commissioner must share information and cooperate with the commissioner of natural resources, the United States Fish and Wildlife Service, the Agricultural Stabilization and Conservation Service and Soil Conservation Service of the United States Department of Agriculture, the agricultural extension service of the University of Minnesota, county boards, and interested private organizations and individuals.

Subd. 2. [TECHNICAL ASSISTANCE.] The commissioner must provide technical assistance through the local soil and water conservation districts to landowners enrolled in the conservation reserve program. The commissioner of natural resources must provide technical advice and assistance to the commissioner on the form and content of the conservation reserve contract and on cultural practices relating to the establishment and maintenance of permanent cover. The commissioners of agriculture and natural resources shall jointly prepare an informational booklet about state and federal programs for land acquisition, conservation, and retirement and make the booklets available to the public.

Sec. 4. [40.47] [RULES.]

The commissioner may adopt rules to administer and implement sections 2 and 3.

Sec. 5. [84.941] [FISH AND WILDLIFE RESOURCES MANAGEMENT PLAN.]

Subdivision 1. [PREPARATION.] The commissioner shall prepare a comprehensive fish and wildlife management plan. The preliminary plan must be completed by July 1, 1986, and include a program outline and issues analysis. The final plan must be completed by July 1, 1987, and include a resource assessment, a resource plan under subdivision 3, and other items determined by the commissioner. The final plan must be reviewed and updated every two years. The resource assessment must be updated every five

years after the final plan is completed.

Subd. 2. [RESOURCE ASSESSMENT.] The resource assessment must include:

(1) a description of the statewide historical and present use, supply, and demand for fish and wildlife resources;

(2) an assessment of the statewide projected use and demand for fish and wildlife resources; and

(3) an assessment of the capability of fish and wildlife resources to meet future demand.

Subd. 3. [RESOURCE PLAN.] The resource plan must include:

(1) an issue analysis describing major fish and wildlife management problems;

(2) a strategic plan that states goals, policies, and alternative actions to address the resource management problems, and recommendations for actions of other agencies to accomplish fish and wildlife resource goals;

(3) an operational plan that describes the management program's objectives and specific actions needed to address the resource management problems, an estimate of the cost of the actions, and a description of the sources and amounts of revenue available to pay the estimated costs and recommendations for additional funding sources; and

(4) a procedure to review expenditures and evaluate the effectiveness of the plan.

Subd. 4. [FEDERAL COORDINATION.] The commissioner shall coordinate all fish and wildlife planning efforts with the appropriate federal agencies to achieve optimum public benefit.

Subd. 5. [PUBLIC AND PRIVATE COORDINATION.] The commissioner shall coordinate fish and wildlife planning efforts with other public agencies and private organizations engaged in fish and wildlife resource management and research.

Sec. 6. [84.943] [MINNESOTA CRITICAL HABITAT PRIVATE SECTOR MATCHING ACCOUNT.]

Subdivision 1. [ESTABLISHMENT.] A Minnesota critical habitat private sector matching account is established as an account in the state treasury. The account shall be administered by the commissioner.

Subd. 2. [FUNDING SOURCES.] The Minnesota critical habitat private sector account shall consist of contributions from private sources and appropriations by the legislature.

Subd. 3. [APPROPRIATIONS MUST BE MATCHED BY PRIVATE FUNDS.] The appropriations by the legislature may only be spent to the extent that they are matched with contributions to the Minnesota critical habitat private sector account from private sources, or by funds contributed to the nongame wildlife management account. Money in the account that is appropriated by the legislature and not matched within three years from the date of the appropriation shall revert to the general fund. The private con-

tributions may be any gift, bequest, devise, or grants of lands or interest in lands or personal property of any kind or of money. For the purposes of this section, the private contributions of land or interests in land shall be valued at their appraised value.

Subd. 4. [MANAGEMENT.] *The Minnesota critical habitat private sector account shall be managed to earn the highest interest compatible with prudent investment, preservation of principal, and reasonable liquidity. Unless a legislative appropriation reverts under subdivision 3, the appropriation and interest attributable to the appropriation shall remain in the account until spent.*

Subd. 5. [PLEDGES AND CONTRIBUTIONS.] *The commissioner may accept contributions and pledges to the Minnesota critical habitat private sector account. Pledges made contingent on appropriations by the legislature may be accepted and shall be reported with other pledges. On each December 1 preceding a budgetary biennium, the commissioner shall report the amount that has been contributed to the nongame management account, and the amount that has been contributed and the amount that has been pledged for payment to the private sector matching fund, in the succeeding two calendar years in the department's budget request. The commissioner shall report the contributed and pledged amounts to the governor and to the senate committees on finance and on agriculture and natural resources, and the house of representatives committees on environment and natural resources and on appropriations.*

Subd. 6. [EXPENDITURES.] *Money from the Minnesota critical habitat private sector account may only be spent for acquisition of land or interests in land under section 7, except that the money matched to the nongame wildlife management account may be used for the management of nongame wildlife projects as specified in section 290.431. Acquisition includes: (1) purchase by the commissioner of land or an interest in land; and (2) acceptance by the commissioner of gifts of land or interests in land.*

Sec. 7. [84.945] [DESIGNATION OF SITES AS PROGRAM ACQUISITIONS.]

Subdivision 1. [ACQUISITION OF CRITICAL NATURAL HABITAT.] *The commissioner shall spend money from the Minnesota critical habitat private sector account under section 6, to acquire lands by purchase or gift that are critical natural habitat for the benefit of wildlife and related resources.*

Subd. 2. [DETERMINATION OF CRITICAL NATURAL HABITAT.] *The commissioner shall consider the following criteria in determining which critical natural habitat land to acquire:*

- (1) the significance of the land for wildlife habitat;*
- (2) the significance of the land for nongame species habitat;*
- (3) the significance of the land as habitat for native plant or animal species classified as endangered or threatened;*
- (4) the presence of a native ecological community that is now uncommon or diminishing on the land; or*
- (5) the importance of the land to enhance efforts to protect or manage*

natural systems or features in an existing state-owned wildlife or natural area that meets the criteria of the program.

Subd. 3. [OUTDOOR RECREATION UNIT DESIGNATION.] Each site acquired by the commissioner under this section shall be designated by the commissioner as an outdoor recreation unit under section 86A.07, subdivision 3.

Sec. 8. [84.947] [WATER RECREATION ACCOUNT.]

The water recreation account is established in the state treasury. Money from the unrefunded tax paid on gasoline used for motor boat purposes shall be deposited into the account as provided in section 296.421, subdivision 4. The money may be spent by the commissioner for the following purposes after appropriation by the legislature:

(1) acquisition, development, maintenance, and rehabilitation of sites for public access and boating facilities on public waters;

(2) lake and river improvement;

(3) state park development; and

(4) boat and water safety.

Sec. 9. [97.4835] [CONSIDERATION OF LEASING.]

The commissioner shall consider leasing land for wildlife habitat and establishing cooperative agreements with landowners in wildlife habitat acquisition. The commissioner shall report on wildlife habitat acquisition to the senate agriculture and natural resources committee and the house environment and natural resources committee by January 1 of each year.

Sec. 10. Minnesota Statutes 1984, section 97.49, subdivision 3, is amended to read:

Subd. 3. A sum equal to: (1) 35 percent of the gross receipts from all special use permits and leases of lands acquired for public hunting grounds and game refuges, or (2) 50 cents per acre on purchased land actually used for public hunting grounds and game refuges, or (3) three-quarters of one percent of the appraised value of purchased land actually used for public hunting grounds and game refuges, whichever amount is the greater, shall be paid out of the ~~game and fish~~ *general* fund annually to the county in which said lands are located, to be distributed by the county treasurer among the county and the respective towns and school districts wherein such grounds and refuges lie, on the same basis as if the payments were received as taxes on such lands, payable in the current year, but this provision shall not apply to state trust fund lands or any other state lands not purchased for game refuge and public hunting ground purposes. The county's share of the proceeds shall be deposited in the county general revenue fund. For the purpose of determining the applicability of payments pursuant to clause (3) above, the appraised value of the lands acquired shall be deemed to be the purchase or acquisition price thereof during the first five years following acquisition. After the expiration of five years from the date of acquisition or, in the case of lands acquired prior to July 1, 1974, within 90 days after July 1, 1979, and thereafter at five year intervals, a current appraisal of the land shall be made by the appropriate county assessor, and shall govern payments.

Sec. 11. Minnesota Statutes 1984, section 290.431, is amended to read:

290.431 [NONGAME WILDLIFE CHECKOFF.]

Every individual who files an income tax return or property tax refund claim form may designate on their original return that \$1 or more shall be added to the tax or deducted from the refund that would otherwise be payable by or to that individual and paid into an account to be established for the management of nongame wildlife. The commissioner of revenue shall, on the income tax return and the property tax refund claim form, notify filers of their right to designate that a portion of their tax or refund shall be paid into the nongame wildlife management account. The sum of the amounts so designated to be paid shall be credited to the nongame wildlife management account for use by the nongame section of the division of wildlife in the department of natural resources. *All interest earned on money attributable to the nongame wildlife management account shall be credited to the account by the state treasurer.* The commissioner of natural resources shall submit a work program for each fiscal year and semi-annual progress reports to the legislative commission on Minnesota resources in the form determined by the commission. None of the money provided in this section may be expended unless the commission has approved the work program.

The state pledges and agrees with all contributors to the nongame wildlife management account to use the funds contributed solely for the management of nongame wildlife projects and further agrees that it will not impose additional conditions or restrictions that will limit or otherwise restrict the ability of the commissioner of natural resources to use the available funds for the most efficient and effective management of nongame wildlife.

Sec. 12. Minnesota Statutes 1984, section 296.421, subdivision 4, is amended to read:

Subd. 4. [DISTRIBUTION OF UNREFUNDED TAX FOR MOTOR BOAT PURPOSES.] The amount of unrefunded tax paid on gasoline used for motor boat purposes as computed in Minnesota Statutes 1961, Section 296.421, Subdivision 5, shall be paid into the state treasury and $33\frac{1}{3}$ percent thereof shall be credited to the state park development account; $33\frac{1}{3}$ percent thereof shall be credited to the game and fish fund to be used to defray the cost and expense of the division of game and fish and the department of natural resources in the acquisition, improvement, development and maintenance of sites for public access to public waters of this state and for lake improvement; and the remaining $33\frac{1}{3}$ percent thereof shall be credited to the general fund for purposes of boat and water safety credited to the water recreation account under section 8.

Sec. 13. Minnesota Statutes 1984, section 296.421, subdivision 5, is amended to read:

Subd. 5. [COMPUTATION OF UNREFUNDED TAX.] The amount of unrefunded tax shall be a sum equal to ~~three-fourths of one~~ and one-half percent of all revenues derived from the excise taxes on gasoline, except on gasoline used for aviation purposes, together with interest thereon and penalties for delinquency in payment, paid or collected pursuant to the provisions of sections 296.02 to 296.17. The amount of such tax shall be computed for each six-month period commencing January 1, 1961, and shall be paid

into the state treasury on November 1 and June 1 following each six-month period.

Sec. 14. [APPROPRIATION.]

\$_____ is appropriated from the general fund to the commissioner of natural resources to carry out the provisions of section 5.

\$_____ is appropriated from the general fund to the commissioner of agriculture for the period ending June 30, 1987, to carry out the provisions of sections 1 to 4. No more than ten percent shall be expended for administrative expenses, including technical assistance.

\$_____ is appropriated from the general fund to the Minnesota critical habitat private sector matching account for the period ending June 30, 1987, to carry out the provisions of sections 6 and 7. This amount and any private contributions to the account are appropriated to the commissioner of natural resources to carry out the provisions of sections 6 and 7.

Sec. 15. [EFFECTIVE DATE.]

Sections 1 to 14 are effective the day following final enactment."

Delete the title and insert:

"A bill for an act relating to game and fish; providing for conservation of marginal agricultural lands; enhancement of fish and wildlife; requiring planning and implementation of wildlife management; accelerating an aspen recycling program; changing the funding source for certain county payments; increasing the penalty for buying and selling fish and game; changing distribution of the unrefunded gas tax; appropriating money; amending Minnesota Statutes 1984, sections 97.49, subdivision 3; 290.431; and 296.421, subdivisions 4 and 5; proposing coding for new law in Minnesota Statutes, chapters 40, 84, and 97."

And when so amended the bill do pass and be re-referred to the Committee on Finance. Amendments adopted. Report adopted.

Mr. Merriam from the Committee on Agriculture and Natural Resources, to which was referred

S.F. No. 1225: A bill for an act relating to agriculture; regulating organic foods; proposing coding for new law in Minnesota Statutes, chapter 31.

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

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 1984, section 28A.15, subdivision 5, is amended to read:

Subd. 5. Persons whose principal mode of business is licensed under section 157.03 or 327.15; provided that the holding of any license pursuant to section 157.03 or 327.15 shall not exempt any person from the applicable requirements of the laws and regulations administered by the commissioner, as they relate to composition, standards of identity, adulteration, labeling or misbranding of food.

Sec. 2. [31.92] [DEFINITIONS.]

Subdivision 1. [APPLICABILITY.] The definitions in this section apply to sections 2 to 4.

Subd. 2. [COMMISSIONER.] "Commissioner" means the commissioner of agriculture.

Subd. 3. [ORGANIC FOOD.] "Organic food" means any food product, including meat, dairy products, and beverages, that is marketed using the term "organic" or a derivative of the term "organic" in its labeling or advertising.

Subd. 4. [PRODUCER.] "Producer" means a person who is responsible for growing or raising organic food.

Subd. 5. [VENDOR.] "Vendor" means a person who sells organic food to consumers or vendors.

Sec. 3. [31.93] [REQUIREMENTS.]

Subdivision 1. [ORGANICALLY GROWN.] Organic food must be grown, raised, or composed of ingredients that were grown or raised without the use of chemical fertilizers, pesticides, hormones, antibiotics, growth stimulants, arsenicals, or other substances, not essential to proper nutrition as determined by the commissioner.

Subd. 2. [INFORMATION.] Upon request by the commissioner, vendors must provide the commissioner with the names and addresses of producers.

Sec. 4. [31.94] [ENFORCEMENT AND RULES.]

The commissioner shall enforce section 3 and may withhold organic food from sale or trade if the organic food is grown or composed in violation of section 3. The commissioner shall adopt standards for organically grown food under section 3, subdivision 1, and may adopt rules for administration of sections 3 and 4.

Sec. 5. [ADOPTION OF STANDARDS.]

The commissioner of agriculture must adopt the standards for organically grown food by August 1, 1985.

Sec. 6. [EFFECTIVE DATE.]

This act is effective July 1, 1985."

Delete the title and insert:

"A bill for an act relating to agriculture; exempting manufactured home parks and recreational camping areas from food handling licenses; regulating organically grown foods; amending Minnesota Statutes 1984, section 28A.15, subdivision 5; proposing coding for new law in Minnesota Statutes, chapter 31."

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

Ms. Berglin from the Committee on Health and Human Services, to which was referred

H.F. No. 533: A bill for an act relating to occupations and professions; concerning the practice of veterinary medicine; allowing foreign veterinary graduates to be admitted to practice under certain conditions; amending Minnesota Statutes 1984, sections 156.001; 156.02, subdivision 1; 156.081, subdivision 2; and 156.12, subdivision 2; repealing Minnesota Statutes 1984, section 156.09.

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

Delete everything after the enacting clause and insert:

"Section 1. [144A.43] [DEFINITIONS.]

Subdivision 1. [APPLICABILITY.] The definitions in this section apply to sections 144A.43 to 144A.46.

Subd. 2. [COMMISSIONER.] "Commissioner" means the commissioner of health.

Subd. 3. [HOME CARE SERVICE.] "Home care service" means any of the following services when delivered in a place of residence to a person whose advanced age, illness, disability, or physical condition creates a need for the service:

- (1) nursing services, including the services of a home health aide;*
- (2) personal care services not included under sections 148.171 to 148.299;*
- (3) physical therapy;*
- (4) speech therapy;*
- (5) respiratory therapy;*
- (6) occupational therapy;*
- (7) nutritional services;*
- (8) homemaker services, meal preparation, and similar nonmedical services when arranged to be provided along with at least one other home care service listed in this subdivision;*
- (9) medical social services; and*
- (10) other similar medical services and health-related support services identified by the commissioner in rule.*

Subd. 4. [HOME CARE AGENCY.] "Home care agency" means an organization, unit of government, self-employed individual, or other entity that is regularly engaged in the delivery, directly or by contractual arrangement, of home care services for a fee. "Home care agency" does not include:

- (1) any home or nursing services conducted by and for the adherents of any recognized church or religious denomination for the purpose of providing care and services for those who depend upon spiritual means, through prayer alone, for healing;*
- (2) an individual who only provides services to a relative; or*
- (3) an agency that only provides chore or housekeeping services which do not involve any medical care or treatment or personal care services.*

Sec. 2. [144A.44] [HOME CARE BILL OF RIGHTS.]

Subdivision 1. [STATEMENT OF RIGHTS.] A person who receives home care services has these rights:

(1) the right to receive written information about rights, including what to do if rights are violated;

(2) the right to receive care and services according to a suitable and up-to-date plan, subject to accepted medical and nursing standards, and to take an active part in creating and changing the plan and evaluating care and services;

(3) the right to be told, as part of the doctor's treatment plan, about treatment and services that are being provided or suggested, about other choices that are available, and about the consequences of these choices including the consequences of refusing treatment;

(4) the right to refuse services or treatment;

(5) the right to know, in advance, any limits to the services available from an agency and whether the services are covered by health insurance, medical assistance, or other health programs;

(6) the right to know what the charges are for services, no matter who will be paying the bill;

(7) the right to know that there may be other services available in the community, including other home care services, agencies, and case management services, and to know where to go for information about these services;

(8) the right to choose freely among available agencies and to change agencies after services have begun, within the limits of health insurance, medical assistance, or other health programs;

(9) the right to have personal, financial, and medical information kept private;

(10) the right to be served by people who are properly trained and competent to perform their duties;

(11) the right to be treated with courtesy and respect;

(12) the right to be free from physical and verbal abuse;

(13) the right to reasonable notice of changes in services or charges;

(14) the right to a smooth transition when there will be a change in the agency which provides the services;

(15) the right to know how to contact the director of an agency who is responsible for handling problems and where to go for help outside the agency; and

(16) the right to assert these rights without retaliation.

Subd. 2. [INTERPRETATION AND ENFORCEMENT OF RIGHTS.] These rights are established for the benefit of persons who receive home care services. "Home care services" means home care services as defined in section 144A.43, subdivision 3. A home care agency may not require a person to surrender these rights as a condition of receiving services. A guardian

or conservator or, when there is no guardian or conservator, a designated person, may seek to enforce these rights. This statement of rights does not replace or diminish other rights and liberties that may exist. The commissioner of health shall establish guidelines for interpretation of these rights.

Sec. 3. [144A.45] [REGULATION OF HOME CARE SERVICES.]

Subdivision 1. [AUTHORITY TO REGULATE.] The commissioner may regulate and control the delivery of home care services in order to protect consumers; assure quality of care; improve access to services; prevent fraud, overcharging and other undesirable practices; promote desirable forms of competition; and control health care costs. The commissioner may:

(1) require home care agencies to furnish relevant information and documentation including information requested for purposes of section 144A.46;

(2) inspect the office and records of an agency during regular business hours;

(3) with the consent of the consumer, visit the home where services are being provided;

(4) issue correction orders and assess civil penalties in accordance with section 144.653, subdivisions 5 to 8; and

(5) take other action the commissioner considers appropriate to accomplish the purposes of sections 144A.43 to 144A.46.

In the exercise of the authority granted in sections 144A.43 to 144A.46, the commissioner shall comply with the applicable requirements of section 144.122, the government data practices act, and the administrative procedure act. When conducting routine office visits or inspections, the commissioner shall provide at least 48 hours advance notice to the home care agency.

Subd. 2. [LICENSURE.] A home care agency may not operate in the state without a current license issued by the commissioner of health. In addition to the exemptions listed in subdivision 3, the commissioner may by rule exempt other classes of agencies from licensure requirements. When determining whether to exempt a class of agencies, the commissioner shall consider: (1) the extent to which the agencies, or the individuals who provide services through the agencies, are regulated under another law; (2) the risk to the health, safety, and well-being of the client; and (3) other factors the commissioner considers appropriate. The commissioner may establish different classes of licenses for different types of agencies and may impose different standards and requirements for different kinds of home care services.

Subd. 3. [EXEMPTIONS.] The following agencies are exempt from the requirement to obtain a home care agency license:

(1) a person who is licensed under sections 148.171 to 148.299 and who independently provides nursing services in the home without any contractual or employment relationship to a home care agency or other organization;

(2) a personal care attendant authorized by the commissioner of human services to provide services under the medical assistance program as authorized under section 256B.02, subdivision 8, paragraph (17); and

(3) a professional corporation organized under sections 319A.01 to

319A.22.

An exemption under this subdivision does not excuse the exempted agency from complying with applicable provisions of the home care bill of rights.

Subd. 4. [ENFORCEMENT.] The commissioner may refuse to grant or renew a license, or may suspend or revoke a license, for violation of statutes or rules relating to home care services or for conduct detrimental to the welfare of the consumer. In addition to any other remedy provided by law, the commissioner may, without a prior contested case hearing, temporarily suspend a license or prohibit delivery of services by an agency for not more than 60 days if the commissioner determines that the health or safety of a consumer is in imminent danger, provided (1) advance notice is given to the agency; (2) after notice, the agency fails to correct the problem; (3) the commissioner has reason to believe that other administrative remedies are not likely to be effective; and (4) there is a subsequent opportunity for a contested case hearing. The process of suspending or revoking a license must include a plan for transferring affected clients to other agencies. At the request of a licensee who has been issued a correction order, the commissioner shall order a review of the appropriateness of the correction order by a person designated by the commissioner other than the person who issued the correction order. The review process must allow an opportunity for the licensee to submit a brief explanation of the objections to the correction order. If, after receiving the report and recommendation of the reviewer, the commissioner determines that the correction order was issued inappropriately, the commissioner shall retract the correction order and remove from the licensee's record all references to the order.

Subd. 5. [RELATION TO OTHER REGULATORY PROGRAMS.] In the exercise of the authority granted under sections 144A.43 to 144A.46, the commissioner shall not duplicate or replace standards and requirements imposed under another state regulatory program. The commissioner shall not impose additional training or education requirements upon members of a licensed or registered occupation or profession, except as necessary to address or prevent problems that are unique to the delivery of services in the home or to enforce and protect the rights of consumers listed in section 144A.44. For home care agencies certified under the medicare program, the state standards must not be inconsistent with the medicare standards for medicare services.

Subd. 6. [RULES.] The commissioner shall, in consultation with representatives of home care agencies, community health service agencies, and consumers, adopt rules to implement sections 144A.43 to 144A.46. The rules shall, to the extent possible, assure the health, safety, well-being, and appropriate treatment of persons who receive home care services.

Sec. 4. [144A.46] [INFORMATION AND REFERRAL SERVICES.]

The commissioner shall ensure that information and referral services relating to home care are available in all regions of the state. The commissioner shall collect and make available information about available home care services, costs, sources of payment, agencies, the rights of consumers, and other information the commissioner determines to be appropriate. The commissioner may require home care agencies to provide information requested for the purposes of this section, including price information, as a condition of

licensure. Specific price information furnished by agencies under this section is not public data and must not be released without the written permission of the agency. The commissioner may publish and make available:

(1) general information about the range of costs of home care services in the state and a summary of the range of prices charged by specific agencies;

(2) summary information about the number and nature of complaints received about individual agencies;

(3) summary information about consumer evaluations of individual agencies;

(4) limitations on hours, availability of services, and eligibility for third-party payments, applicable to individual agencies; and

(5) other information the commissioner determines to be appropriate.

Sec. 5. Minnesota Statutes 1984, section 144A.51, is amended by adding a subdivision to read:

Subd. 7. "Home care agency" means a home care agency as defined in section 144A.43.

Sec. 6. Minnesota Statutes 1984, section 144A.52, subdivision 3, is amended to read:

Subd. 3. The director may delegate to members of his staff any of his authority or duties except the duty of formally making recommendations to the legislature, administrative agencies, health facilities, health care providers, *home care agencies*, and the state commissioner of health.

Sec. 7. Minnesota Statutes 1984, section 144A.53, subdivision 1, is amended to read:

Subdivision 1. [POWERS.] The director may:

(a) Promulgate by rule, pursuant to chapter 14, and within the limits set forth in subdivision 2, the methods by which complaints against health facilities, health care providers, *home care agencies*, or administrative agencies are to be made, reviewed, investigated, and acted upon; provided, however, that he may not charge a fee for filing a complaint;

(b) Recommend legislation and changes in rules to the state commissioner of health, legislature, governor, administrative agencies or the federal government;

(c) Investigate, upon a complaint or upon his own initiative, any action or failure to act by a health care provider, *home care agency*, or a health facility;

(d) Request and receive access to relevant information, records, or documents in the possession of an administrative agency, a health care provider, a *home care agency*, or a health facility which he deems necessary for the discharge of his responsibilities;

(e) Enter and inspect, at any time, a health facility; provided that the director shall not unduly interfere with or disturb the activities of a resident unless the resident consents;

(f) Issue a correction order pursuant to section 144.653 or any other law

which provides for the issuance of correction orders to health care facilities or home care agencies, or under section 144A.45;

(g) Recommend the certification or decertification of health facilities pursuant to Title XVIII or Title XIX of the United States Social Security Act;

(h) Assist residents of health facilities in the enforcement of their rights under Minnesota law; and

(i) Work with administrative agencies, health facilities, *home care agencies*, and health care providers and organizations representing consumers on programs designed to provide information about health facilities to the public and to health facility residents.

Sec. 8. Minnesota Statutes 1984, section 144A.53, subdivision 2, is amended to read:

Subd. 2. [COMPLAINTS.] The director may receive a complaint from any source concerning an action of an administrative agency, a health care provider, a *home care agency*, or a health facility. He may require a complainant to pursue other remedies or channels of complaint open to the complainant before accepting or investigating the complaint.

The director shall keep written records of all complaints and his action upon them. After completing his investigation of a complaint, he shall inform the complainant, the administrative agency having jurisdiction over the subject matter, the health care provider, the *home care agency*, and the health facility of the action taken.

Sec. 9. Minnesota Statutes 1984, section 144A.53, subdivision 3, is amended to read:

Subd. 3. [RECOMMENDATIONS.] If, after duly considering a complaint and whatever material he deems pertinent, the director determines that the complaint is valid, he may recommend that an administrative agency, a health care provider, a *home care agency*, or a health facility should:

- (a) Modify or cancel the actions which gave rise to the complaint;
- (b) Alter the practice, rule or decision which gave rise to the complaint;
- (c) Provide more information about the action under investigation; or
- (d) Take any other step which the director considers appropriate.

If the director requests, the administrative agency, a health care provider, a *home care agency*, or health facility shall, within the time specified, inform the director about the action taken on his recommendation.

Sec. 10. Minnesota Statutes 1984, section 144A.53, subdivision 4, is amended to read:

Subd. 4. [REFERRAL OF COMPLAINTS.] If a complaint received by the director relates to a matter more properly within the jurisdiction of an occupational licensing board or other governmental agency, the director shall forward the complaint to that agency and shall inform the complaining party of the forwarding. The agency shall promptly act in respect to the complaint, and shall inform the complaining party and the director of its disposition. If a governmental agency receives a complaint which is more properly within the

jurisdiction of the director, it shall promptly forward the complaint to the director, and shall inform the complaining party of the forwarding. If the director has reason to believe that an official or employee of an administrative agency, a *home care agency*, or health facility has acted in a manner warranting criminal or disciplinary proceedings, he shall refer the matter to the state commissioner of health, the commissioner of human services, an appropriate prosecuting authority, or other appropriate agency.

Sec. 11. Minnesota Statutes 1984, section 144A.54, subdivision 1, is amended to read:

Subdivision 1. Except as otherwise provided by this section, the director may determine the form, frequency, and distribution of his conclusions and recommendations. The director shall transmit his conclusions and recommendations to the state commissioner of health and the legislature. Before announcing a conclusion or recommendation that expressly or by implication criticizes an administrative agency, a health care provider, a *home care agency*, or a health facility, the director shall consult with that agency, health care provider, *home care agency*, or facility. When publishing an opinion adverse to an administrative agency, a health care provider, a *home care agency*, or a health facility, he shall include in the publication any statement of reasonable length made to him by that agency, health care provider, *home care agency*, or health facility in defense or explanation of the action.

Sec. 12. [TEMPORARY PROCEDURES.]

Beginning December 1, 1985, no home care agency may provide home care services in this state without a license issued by the commissioner. The commissioner shall, in consultation with representatives of home care agencies, community health service agencies, and consumers, establish temporary licensing procedures and standards under sections 14.29 to 14.36. Notwithstanding section 14.35, emergency rules adopted under this section are effective until December 31, 1986, or until permanent rules are adopted, whichever is earlier. The activities of the commissioner under this section are limited to the following:

- (1) requiring providers to obtain a license;*
- (2) collecting information from providers;*
- (3) collecting licensing fees; and*
- (4) requiring providers to disclose, to clients, information about rights and complaint procedures.*

Granting of a license under temporary procedures does not exempt a home care agency from requirements later adopted in permanent rules.

Sec. 13. Minnesota Statutes 1984, section 156.001, is amended to read:

156.001 [DEFINITIONS.]

Subdivision 1. [TERMS.] Except where the context otherwise indicates, for the purposes of this chapter, and acts amendatory thereof, the terms defined in this section have the meanings given them.

Subd. 2. [ACCREDITED OR APPROVED COLLEGE OF VETERINARY MEDICINE.] *"Accredited or approved college of veterinary medi-*

cine" means a veterinary college or division of a university or college that offers the degree of doctor of veterinary medicine or its equivalent and that conforms to the standards required for accreditation or approval by the American veterinary medical association.

Subd. 2 3. [ANIMAL.] "Animal" does not mean poultry or birds of any kind.

Subd. 3 4. [BOARD.] "Board" means the state board of veterinary medicine.

Subd. 4 5. [COMPENSATION.] "Compensation" includes but is not limited to all fees, monetary rewards, discounts, and emoluments received directly or indirectly.

Subd. 6. [ECFVG CERTIFICATE.] "ECFVG certificate" means a certificate issued by the American veterinary medical association education commission for foreign veterinary graduates, indicating that the holder has demonstrated knowledge and skill equivalent to that possessed by a graduate of an accredited or approved college of veterinary medicine.

Subd. 5 7. [LICENSEE.] "Licensee" means a person licensed to practice veterinary medicine in the state of Minnesota.

Subd. 6 8. [OPERATION.] "Operation" includes but is not limited to any act of cutting, scraping, or disturbing the intact body surface in any way, and any surgical or dental procedure, except as otherwise provided in this chapter.

Subd. 7 9. [PRACTICE OF VETERINARY MEDICINE.] "Practice of veterinary medicine" has the meaning given by section 156.12.

Subd. 8 10. [VETERINARY MEDICINE.] "Veterinary medicine" includes veterinary surgery, obstetrics, pathology, radiology, dentistry, ophthalmology, cardiology, dermatology, laboratory animal medicine, and all other branches or specialties of veterinary medicine.

Sec. 14. Minnesota Statutes 1984, section 156.02, subdivision 1, is amended to read:

Subdivision 1. Application for a license to practice veterinary medicine in this state shall be made in writing to the board of veterinary medicine upon a form furnished by the board, accompanied by satisfactory evidence that the applicant is at least 18 years of age, is of good moral character, and has received one of the following:

(1) a diploma conferring the degree of doctor of veterinary medicine, or an equivalent degree, from a ~~veterinary school approved by the board~~, an accredited or approved college of veterinary medicine;

(2) an ECFVG certificate; or

(3) a certificate from the dean of an accredited or approved college of veterinary medicine stating that the applicant is a student in good standing expecting to be graduated at the completion of the next academic term of the college in which he is enrolled.

The application shall contain the information and material required by subdivision 2 and any other information that the board may, in its sound judgment,

ment, require. The application shall be filed with the secretary of the board at least 30 days before the date of the examination. If the board deems it advisable, it may require that such application be verified by the oath of the applicant.

Sec. 15. Minnesota Statutes 1984, section 156.081, subdivision 2, is amended to read:

Subd. 2. The board may revoke or suspend a license for any of the following causes:

(1) The employment of fraud, misrepresentation or deception in obtaining such license.

(2) Conviction of a crime involving moral turpitude or conviction of a felony, in which case the record shall be conclusive evidence of such conviction.

(3) Chronic inebriety or addiction to the use of habit forming drugs.

(4) Existence of professional connection with or the lending of one's name to any illegal practitioner of veterinary medicine and the various branches thereof.

(5) Violation or attempt to violate, directly or indirectly, any of the provisions of this chapter.

(6) Revocation by a sister state or territory of a license or certificate by virtue of which one is licensed to practice veterinary medicine in that state or territory, notwithstanding that such license or certificate did not support the application for license to practice in this state.

(7) Conviction of or cash compromise of a charge or violation of the Harrison Narcotic Act, regulating narcotics, in which case the record of such conviction or compromise, as the case may be, shall be conclusive evidence.

(8) Fraud or dishonesty in applying, treating, or reporting on tuberculin or other biological tests.

(9) Employment of anyone but a veterinarian licensed in the state of Minnesota to demonstrate the use of biologics in the treatment of animals.

(10) False or misleading advertising having for its purpose or intent deception or fraud.

(11) Habitual conduct reflecting unfavorably on the profession of veterinary medicine or conduct in violation of law or rules or regulations of the board.

(12) Conviction on a charge of cruelty to animals.

(13) Failure, after written notification by the board, to keep one's premises and all equipment therein in a clean and sanitary condition, according to reasonable standards adopted by the board.

(14) Fraud, deception, or incompetence in the practice of veterinary medicine.

(15) *Unprofessional conduct as defined in rules adopted by the board.*

A plea or verdict of guilty to a charge of a felony or of any offense involving

moral turpitude is deemed to be a conviction within the meaning of this section. The board may order the license suspended or revoked, or may decline to issue a license, when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal.

Sec. 16. Minnesota Statutes 1984, section 156.12, subdivision 2, is amended to read:

Subd. 2. No provision of this chapter shall be construed to prohibit:

(a) A person from rendering necessary gratuitous assistance in the treatment of any animal when the assistance does not amount to prescribing, testing for, or diagnosing, operating, or vaccinating and when the attendance of a licensed veterinarian cannot be procured;

(b) A person who is a regular student in an accredited or approved college of veterinary medicine from performing duties or actions assigned by his instructors or preceptors or working under the direct supervision of a licensed veterinarian;

(c) A veterinarian regularly licensed in another jurisdiction from consulting with a licensed veterinarian in this state;

(d) The owner of an animal and the owner's regular employee from caring for and treating the animal belonging to the owner, except where the ownership of the animal was transferred for purposes of circumventing this chapter;

(e) Veterinarians employed by the University of Minnesota from performing their duties with the college of veterinary medicine, college of agriculture, agricultural experiment station, agricultural extension service, medical school, school of public health, or other unit within the university; or a person from lecturing or giving instructions or demonstrations at the university or in connection with a continuing education course or seminar to veterinarians;

(f) Any person from selling or applying any pesticide, insecticide or herbicide;

(g) Any person from engaging in bona fide scientific research or investigations which reasonably requires experimentation involving animals;

(h) Any employee of a licensed veterinarian from performing duties other than diagnosis, prescription or surgical correction under the direction and supervision of the veterinarian, who shall be responsible for his or her performance;

(i) *A graduate of a foreign college of veterinary medicine from working under the direct personal instruction, control, or supervision of a licensed veterinarian in order to complete the requirements necessary to obtain an ECFVG certificate.*

Sec. 17. Minnesota Statutes 1984, section 256.045, subdivision 3, is amended to read:

Subd. 3. [STATE AGENCY HEARINGS.] ~~In counties in which the commissioner of human services has not appointed a local welfare referee any~~ Except as otherwise provided in subdivision 3a, a person applying for, receiving, or having received ~~any of the forms of public assistance described in subdivision 2 granted by a local agency under sections 256.72 to 256.87;~~

chapters 256B, 256D, or 261; the federal food stamp program; or a program of social services; whose application for assistance is denied, not acted upon with reasonable promptness, or whose assistance is suspended, reduced, terminated, or claimed to have been incorrectly paid, or any patient or relative aggrieved by an order of the commissioner under section 252.27, may contest that action or decision before the state agency by submitting a written request for a hearing to the state agency within 30 days after receiving written notice of the action or decision, or within 90 days of such written notice if the applicant, recipient, patient or relative shows good cause why the request was not submitted within the 30 day time limit. A local agency or party aggrieved by a ruling of a local welfare referee may appeal the ruling to the state agency by filing a notice of appeal with the state agency within 30 days after receiving the ruling of the local welfare referee. A state welfare referee shall conduct a hearing on the matter and shall recommend an order to the commissioner of human services. In appeals from rulings of local welfare referees, the hearing may be limited, upon stipulation of the parties, to a review of the record of the local welfare referee.

Sec. 18. Minnesota Statutes 1984, section 256.045, is amended by adding a subdivision to read:

Subd. 3a. [DENIALS OF MEDICAL BENEFITS; RECIPIENTS' RIGHTS TO HEARINGS.] A person who is receiving or has received public assistance under the medical assistance or general assistance medical care program who is aggrieved by a decision of the commissioner of human services denying, limiting, or restricting the provision or the nature, scope, or duration of the medical services covered by the program, may contest that decision under subdivision 3. Except as otherwise provided by law, any person who is receiving or has received public assistance under the medical assistance or the general assistance medical care program who is enrolled in a prepaid health plan and is aggrieved by a decision of the prepaid health plan denying, limiting, or restricting the provision or the nature, scope, or duration of the medical services covered by the plan, may contest that decision. If the commissioner's contract with the prepaid health plan provides for the plan to bear all of the costs of the grievance procedure and impartial arbitration, establishes procedures to assure that a written resolution of the grievance will be issued within 60 days of its filing with the plan, and provides for submission of copies of all grievances and written resolutions to the commissioner, the person must contest the decision under the procedures in section 62D.11 and does not have standing to file an appeal under subdivision 3.

Sec. 19. Minnesota Statutes 1984, section 256.969, subdivision 1, is amended to read:

Subdivision 1. [ANNUAL COST INDEX.] The commissioner of human services shall develop a prospective payment system for inpatient hospital service under the medical assistance and general assistance medical care programs. Rates paid to established for licensed hospitals for rate years beginning during the fiscal biennium ending June 30, 1985 1987, shall not exceed an annual hospital cost index for the final rate allowed to the hospital for the preceding year not to exceed five percent in any event. The annual hospital cost index shall be obtained from an independent source representing a statewide average of inflation estimates determined for expense categories to include salaries, employee benefits, medical fees, raw food,

medical supplies, pharmaceuticals, utilities, repairs and maintenance, insurance other than malpractice insurance, and other applicable expenses as determined by the commissioner. ~~The index shall reflect the regional differences within the state and include a one percent increase to reflect changes in technology.~~ The annual hospital cost index shall be published 30 days before the start of each calendar quarter and shall be applicable to all hospitals whose fiscal years start on or during the calendar quarter.

Sec. 20. Minnesota Statutes 1984, section 256.969, subdivision 2, is amended to read:

Subd. 2. [RATES FOR INPATIENT HOSPITALS.] Rates paid to inpatient hospitals shall be based on a rate per admission until the commissioner can begin to reimburse hospitals for services under the medical assistance and general assistance medical care programs based upon a diagnostic classification system appropriate to the service populations. On July 1, 1984, the commissioner shall begin to utilize to the extent possible existing classification systems, including medicare. The commissioner ~~shall~~ may incorporate the grouping of hospitals with similar characteristics for uniform rates upon the development and implementation of the diagnostic classification system. Prior to implementation of the diagnostic classification system, the commissioner shall report the proposed grouping of hospitals to the senate health and human services committee and the house health and welfare committee. Medical assistance and general assistance medical care reimbursement for treatment of mental illness shall be reimbursed based upon diagnosis classifications. *The commissioner may selectively contract with hospitals for services within the diagnostic classifications relating to mental illness and chemical dependency under competitive bidding when reasonable geographic access by recipients can be assured. A physician must not be denied the privilege of treating a recipient required to utilize a hospital under contract with the commissioner, as long as the physician meets credentialing standards of the individual hospital.*

Sec. 21. Minnesota Statutes 1984, section 256.969, is amended by adding a subdivision to read:

Subd. 2a. [AUDIT ADJUSTMENTS TO INPATIENT HOSPITAL RATES.] *Inpatient hospital rates established under subdivision 2 using 1981 historical medicare cost-report data may be adjusted based on the findings of audits of hospital billings and patient records performed by the commissioner that identify billings for services that were not delivered or never ordered. The audit findings may be based on a statistically valid sample of billings of the hospital. After the audits are complete, the commissioner shall adjust rates paid in subsequent years to reflect the audit findings and recover any payments in excess of the adjusted rates or reimburse hospitals when audit findings indicate that underpayments were made to the hospital.*

Sec. 22. Minnesota Statutes 1984, section 256B.02, is amended by adding a subdivision to read:

Subd. 11. [PREPAID HEALTH PLAN.] *"Prepaid health plan" means a vendor who receives a capitation payment in advance and assumes risk for the provision of medical assistance services.*

Sec. 23. [256B.031] [PREPAID HEALTH PLAN.]

Subdivision 1. [SERVICES AND INFORMATION.] The commissioner may contract with a health maintenance organization licensed and operating under chapter 62D, a health insurer licensed and operating under chapter 62A, or a health service plan corporation licensed and operating under chapter 62C, to provide medical services to medical assistance recipients as a prepaid health plan. These health insurers shall be authorized to enter into contracts with the commissioner under this section. As a condition of the contract, health insurers and health service plan corporations must agree to comply with the requirements in section 62D.04, subdivision 1, clauses (a), (b), (c), (d), and (f), and provide a complaint procedure that satisfies the requirements of section 62D.11. State contracts for these services must assure recipients of at least the comprehensive health services defined in section 256B.02, subdivision 8, and the rules that implement this section, except services by skilled nursing facilities; intermediate care facilities including ICF I, ICF II, and ICF-MR services; and services provided by waived service providers. For counties with a county operated or affiliated public teaching hospital, the commissioner must contract with the hospital if the hospital satisfies the criteria for participation as a prepaid health plan and the terms of the contract, including capitation rates, are competitive with the terms of other contracts awarded for services to similar populations. All prepaid health plans under contract shall provide information to the commissioner as required by the contract including, but not limited to, the number of people receiving services, the number of encounters, the types of services received, evidence of an operational quality assurance program, and information about utilization and actual third-party recoveries. All information received by the commissioner under this section shall be treated as trade secrets, as defined in section 13.37.

Subd. 2. [PREPAID HEALTH PLAN RATES.] For payments made during calendar years 1985 and 1986, the monthly allowable rate established by the commissioner of human services for payment to prepaid health plans must be 90 percent of the projected average monthly per capita fee-for-service payments, by county, made on behalf of eligible recipients during state fiscal year 1984. The commissioner shall exclude from the calculation recipients who are voluntarily enrolled in prepaid health plans. Maximum allowable rates may be calculated separately for each county and may be adjusted to reflect differences among classes of recipients. For payments made during calendar year 1987, the maximum allowable rates payable must be 105 percent of the previous year's rate. For payments made during calendar year 1988 and subsequent years, contracts must be awarded on a competitive basis. Rates established for prepaid health plans must be based on the services the prepaid health plan is at risk to provide under contract with the commissioner.

Subd. 3. [FREE CHOICE LIMITED.] In designated service areas of the state where the commissioner has contracted with prepaid health plans, the following recipients' free choice of provider is limited to choosing from among the prepaid health plans: (1) recipients of aid to families with dependent children; and (2) those persons who are over age 65, are eligible for medicare parts A and B, are eligible for medical assistance, and are not residents of a long-term care facility. The commissioner shall implement the mandatory enrollment during the period from July 1, 1985, to December 30, 1986. Enrollment in a prepaid health plan is mandatory for recipients designated in this section and who become eligible or whose eligibility is redetermined, after January 1, 1985. Enrollment in a prepaid health plan is mandatory only if recipients have a choice of at least two prepaid health plans. If

third-party coverage is available to a recipient through enrollment in a prepaid health plan by the former spouse; or if a duty of support has been imposed by law, order, decree, or judgment of a court under section 518.551; the obligee or recipient must participate in the prepaid health plan in which the obligee has enrolled if the commissioner has contracted with the plan.

Subd. 4. [GRIEVANCES; MONITORING.] The commissioner shall monitor the complaints and grievances filed by enrollees in prepaid health plans to assure the cost-effectiveness and quality of care provided. The commissioner shall publish an annual report with information on the number and nature of grievances, the resolution of the grievances, and any pattern of denials of medical benefits among prepaid health plans generally, or individual health plans specifically.

Subd. 5. [OMBUDSMAN.] The commissioner shall designate an ombudsman to be an advocate for persons required to enroll in prepaid health plans under this section. The ombudsman shall advocate for enrollees through prepaid health plan grievance procedures and ensure that necessary services are provided either by the prepaid health plan directly or by referral to appropriate social services. When enrollees choose their prepaid plan, they must be informed about the ombudsman program and their right to file a grievance with the prepaid health plan if they experience a problem with the plan or its providers. The ombudsman may consult with the commissioner of health or the commissioner of commerce to assure quality care for enrollees.

Sec. 24. Minnesota Statutes 1984, section 256B.19, subdivision 1, is amended to read:

Subdivision 1. [DIVISION OF COST.] The cost of medical assistance paid by each county of financial responsibility shall be borne as follows: Payments shall be made by the state to the county for that portion of medical assistance paid by the federal government and the state on or before the 20th day of each month for the succeeding month upon requisition from the county showing the amount required for the succeeding month. Ninety percent of the expense of assistance not paid by federal funds available for that purpose shall be paid by the state and ten percent shall be paid by the county of financial responsibility.

For counties where health maintenance organizations are under contract to the state to provide services to medical assistance recipients that participate in a medicaid demonstration project under sections 256B.69 and 256B.71, the division of the nonfederal share of medical assistance expenses for payments made to health maintenance organizations in the form of prepaid capitation payments; this division of medical assistance expenses shall be 95 percent by the state and five percent by the county of financial responsibility.

State contracts with health maintenance organizations shall assure medical assistance recipients of at least the comprehensive health maintenance services defined in section 62D.02, subdivision 7. The contracts shall require health maintenance organizations to provide information to the commissioner concerning the number of people receiving services; the number of encounters; the type of services received; evidence of an operational quality assurance program pursuant to section 62D.04 and information about utilization.

Persons who become eligible for medical assistance after July 1, 1984, who

are not participating in any Medicaid demonstration project as defined under sections 256B.70 and 256B.71, and who choose at the time of application for assistance to receive services from a health maintenance organization, shall be guaranteed six months of coverage by a state contracted health maintenance organization if the recipient remains in the health maintenance organization from the time of initial enrollment. The continued eligibility guarantee shall not be granted when ineligibility for medical assistance is due to death, loss of state or county residency, failure to respond to the county's efforts to contact the recipient, failure to locate the recipient, or when the recipient is eligible for continued eligibility as defined in section 256B.062. In counties where prepaid health plans are under contract to the commissioner to provide services to medical assistance recipients, the cost of court ordered treatment that does not include diagnostic evaluation, recommendation, or referral for treatment by the prepaid health plan is the responsibility of the county of financial responsibility.

Sec. 25. Minnesota Statutes 1984, section 256B.69, subdivision 4, is amended to read:

Subd. 4. [LIMITATION OF CHOICE.] *Notwithstanding section 256B.031, subdivision 3, the commissioner shall develop criteria to determine when limitation of choice may be implemented in the experimental counties. The criteria shall ensure that all eligible individuals in the county have continuing access to the full range of medical assistance services as specified in subdivision 6. Before limitation of choice is implemented, eligible individuals shall be notified and after notification, shall be allowed to choose only among demonstration providers. After initially choosing a provider, the recipient is allowed to change that choice only at specified times as allowed by the commissioner.*

Sec. 26. Minnesota Statutes 1984, section 256D.03, subdivision 4, is amended to read:

Subd. 4. [GENERAL ASSISTANCE MEDICAL CARE; SERVICES.] (a) Reimbursement under the general assistance medical care program shall be limited to the following categories of service: inpatient hospital care, outpatient hospital care, services provided by medicare certified rehabilitation agencies, prescription drugs, equipment necessary to administer insulin and diagnostic supplies and equipment for diabetics to monitor blood sugar level, eyeglasses and eye examinations provided by a physician or optometrist, hearing aids, prosthetic devices, laboratory and x-ray services, physician's services, medical transportation, *chiropractic services as covered under the medical assistance program, podiatric services, and dental care.* In addition, payments of state aid shall be made for day treatment services provided by a mental health center established under sections 245.61 to 245.69, subdivision 1, and funded through chapter 256E and for prescribed medications for persons who have been diagnosed as mentally ill as necessary to prevent more restrictive institutionalization.

(b) In order to contain costs, ~~the county board shall, with the approval of the~~ commissioner of human services, ~~shall~~ select vendors of medical care who can provide the most economical care consistent with high medical standards and ~~may shall where possible~~ contract with organizations on a prepaid capitation basis to provide these services. The commissioner shall encourage

~~county boards to submit consider proposals by counties and vendors for demonstration projects prepaid health plans, competitive bidding programs, block grants, or other vendor payment mechanisms designed to provide services in an economical manner or to control utilization, with safeguards to ensure that necessary services are provided. Before implementing prepaid programs in counties with a county operated or affiliated public teaching hospital, the commissioner shall consider the risks the prepaid program creates for the public hospital and allow the county or public hospital the opportunity to participate in the program in a manner that reflects the risk of adverse selection and the nature of the patients served by the hospital, provided the terms of participation in the program are competitive with the terms of other participants considering the nature of the population served. Payment for services provided pursuant to this subdivision shall be as provided to medical assistance vendors of these services under section 256B.02, subdivision 8, except that where counties enter into prepaid capitation agreements, payments shall be as provided in section 256.966, subdivision 2. The maximum allowable rates payable under this section must be calculated according to section 256B.031, subdivision 2.~~

(c) The commissioner of human services may reduce payments provided under sections 256D.01 to 256D.21 and 261.23 in order to remain within the amount appropriated for general assistance medical care, within the following restrictions. For the period July 1, 1983 1985, to June 30, 1984 1986, reductions below the cost per service unit allowable under section 256.966, are permitted only as follows: payments for inpatient and outpatient hospital care provided in response to a primary diagnosis of chemical dependency or mental illness may be reduced no more than 45 20 percent; payments for all other inpatient hospital care may be reduced no more than 35 15 percent. Reductions below the payments allowable under section 256.967 for the remaining general assistance medical care services allowable under this subdivision may be reduced no more than 25 five percent. For the period July 1, 1984 1986 to June 30, 1985 1987, reductions below the cost per service unit allowable under section 256.966 are permitted only as follows: payments for inpatient and outpatient hospital care provided in response to a primary diagnosis of chemical dependency or mental illness may be reduced no more than 30 15 percent; payments for all other inpatient hospital care may be reduced no more than 20 ten percent. Reductions below the payments allowable under section 256.967 for the remaining general assistance medical care services allowable under this subdivision may be reduced no more than ten five percent. There shall be no copayment required of any recipient of benefits for any services provided under this subdivision. A hospital receiving a reduced payment as a result of this section may apply the unpaid balance toward satisfaction of the hospital's bad debts. *During the biennium ending June 30, 1985, the commissioner shall phase out ratable reductions in the general assistance medical care program to the extent possible using any surplus projected to exist at the end of the biennium within the appropriations for medical assistance and general assistance medical care. On or after July 1, 1986, the commissioner shall phase out, partially or completely, ratable reductions in the general assistance medical care program to the extent that sufficient savings are identified within the appropriations for medical assistance and general assistance medical care to cover the costs of the phase-out.*

(d) Any county may, from its own resources, provide medical payments for which state payments are not made.

Sec. 27. Minnesota Statutes 1984, section 256D.03, subdivision 6, is

amended to read:

Subd. 6. [DIVISION OF COSTS.] The state shall pay 90 percent of the cost of general assistance medical care paid by the local agency or county pursuant to this section. ~~However, for counties who contract with health maintenance organizations or other providers to deliver services under a prepaid capitation agreement, the state shall pay 95 percent of the cost per person enrolled. In counties where prepaid health plans are under contract to the commissioner to provide services to general assistance medical care recipients, the cost of court ordered treatment that does not include diagnostic evaluation, recommendation, or referral for treatment by the prepaid health plan is the responsibility of the county of financial responsibility.~~

Sec. 28. [CASE MIX REIMBURSEMENT STUDY; REPORTS.]

Subdivision 1. [CASE MIX REIMBURSEMENT STUDY.] The commissioner of human services shall study mechanisms for reimbursement of providers of services in intermediate care facilities for the mentally retarded, developmental achievement centers, or waived services under section 256B.501 based on the needs and resource use of the persons served by a provider, with incentives designed to encourage quality care and, when feasible, the developmental progress of persons receiving those services.

Subd. 2. [REPORTS.] The commissioner shall report to the legislative long-term care commission no later than July 1, 1986, with recommendations on the implementation of a new reimbursement system. The commissioner shall at the request of the legislative long-term care commission, report on the process of implementing changes in the general assistance medical care and medical assistance programs as a result of this act.

Sec. 29. [PROGRAM SUPERVISION AND ADMINISTRATION STUDY.]

The commissioner of human services shall study the feasibility of electronic eligibility determination, electronic benefit transfer, and other methods to improve the productivity of state supervision and county administration of medical assistance, general assistance, general assistance medical care, aid to families with dependent children, and the food stamp program. The commissioner shall report to the legislature no later than January 15, 1987.

Sec. 30. Minnesota Statutes 1984, section 626.557, subdivision 2, is amended to read:

Subd. 2. [DEFINITIONS.] As used in this section, the following terms have the meanings given them unless the specific context indicates otherwise.

(a) "Facility" means a hospital or other entity required to be licensed pursuant to sections 144.50 to 144.58; a nursing home required to be licensed to serve adults pursuant to section 144A.02; an agency, day care facility, or residential facility required to be licensed to serve adults pursuant to sections 245.781 to 245.812; a mental health program receiving funds pursuant to section 245.61; or a home health care agency certified for participation in Titles XVIII or XIX of the Social Security Act, United States Code, title 42, sections 1395 et seq licensed by the state pursuant to section 3.

(b) "Vulnerable adult" means any person 18 years of age or older:

(1) Who is a resident or inpatient of a facility;

(2) Who receives services at or from a facility required to be licensed to serve adults pursuant to sections 245.781 to 245.812, except a person receiving outpatient services for treatment of chemical dependency or mental illness;

(3) Who receives services from a home health care agency certified for participation under Titles XVIII or XIX of the Social Security Act, United States Code, title 42, sections 1395 et seq and 1396 et seq licensed by the state under section 3; or

(4) Who, regardless of residence or type of service received, is unable or unlikely to report abuse or neglect without assistance because of impairment of mental or physical function or emotional status.

(c) "Caretaker" means an individual or facility who has responsibility for the care of a vulnerable adult as a result of family relationship, or who has assumed responsibility for all or a portion of the care of a vulnerable adult voluntarily, or by contract, or agreement.

(d) "Abuse" means:

(1) Any act which constitutes a violation under sections 609.221 to 609.235, 609.322, 609.342, 609.343, 609.344, or 609.345; or

(2) The intentional and nontherapeutic infliction of physical pain or injury, or any persistent course of conduct intended to produce mental or emotional distress.

(e) "Neglect" means:

(1) Failure by a caretaker to supply the vulnerable adult with necessary food, clothing, shelter, health care or supervision; or

(2) The absence or likelihood of absence of necessary food, clothing, shelter, health care, or supervision for a vulnerable adult.

(f) "Report" means any report received by the local welfare agency, police department, county sheriff, or licensing agency pursuant to this section.

(g) "Licensing agency" means:

(1) The commissioner of health, for facilities as defined in clause (a) which are required to be licensed or certified by the department of health;

(2) The commissioner of human services, for facilities required by sections 245.781 to 245.813 to be licensed;

(3) Any licensing board which regulates persons pursuant to section 214.01, subdivision 2; and

(4) Any agency responsible for credentialing human services occupations.

Sec. 31. Laws 1983, chapter 199, section 17, is amended to read:

Sec. 17. [LEGISLATIVE COMMISSION ON LONG-TERM HEALTH CARE.]

Subdivision 1. A legislative study commission is created

(a) to monitor the inspection and regulation activities, including rule developments, of the departments of health and public welfare with the goal of improving quality of care;

(b) to monitor the implementation of cost containment programs and other changes in the general assistance medical care and medical assistance programs;

(c) to study and report on alternative long-term care services, including respite care services, day care services, and hospice services; and

(e) (d) to study and report on alternatives to medical assistance funding for providing long term health care services to the citizens of Minnesota.

The study commission shall consider the use of such alternatives as private insurance, private annuities, health maintenance organizations, preferred provider organizations, medicare, and such other alternatives as the commission may deem worthy of study.

Subd. 2. The commission shall consist of six members of the house of representatives appointed by the speaker and six members of the senate appointed by the subcommittee on committees.

Subd. 3. The commission shall report its findings and recommendations to the governor and the legislature not later than January 1, 1985.

Subd. 4. The commission shall hold meetings and hearings at the times and places it designates to accomplish the purposes set forth in this section. It shall select a chairperson and other officers from its membership as it deems necessary.

Subd. 5. The commission shall make use of existing legislative facilities and staff of the house and senate research department and senate counsel, but it may also request the legislative coordinating commission to supply it with additional necessary staff, office space, and administrative services. All additional personnel shall be hired and supervised by the directors of the house and senate research departments and senate counsel. The commission shall have full authority to contract for expert services and opinions relevant to the purposes of this section. The commission, by a two-thirds vote of its members, may request the issuance of subpoenas, including subpoenas duces tecum, requiring the appearance of persons, production of relevant records, and giving of relevant testimony.

Sec. 32. [APPROPRIATION.]

\$_____ is appropriated from the general fund to the commissioner of health for the regulation and licensure of home care services and agencies, to be available until June 30, 1987.

\$1,014,000 is appropriated from the general fund to the commissioner of human services for the purpose of administering sections 17 to 29. Of this amount, \$500,000 is to be used for the purpose of sections 28 and 29, and \$364,000 is to be used to fund six new staff positions in the department of human services. Any unencumbered balance remaining in the first year does not cancel but is available for the second year.

Sec. 33. [REPEALER.]

Minnesota Statutes 1984, sections 148.281, subdivision 1a; and 156.09;

are repealed effective August 1, 1985.

Minnesota Statutes 1984, sections 256.045, subdivision 2; and 256.966, subdivision 2, are repealed effective July 1, 1988. Minnesota Statutes 1984, section 256B.031, subdivision 3, is repealed effective July 1, 1987.

Sec. 34. [EFFECTIVE DATES.]

Sections 1 to 12, and 30 are effective the day following final enactment. Sections 17 to 29 are effective July 1, 1985."

Delete the title and insert:

"A bill for an act relating to health; requiring licensure of home care agencies; allowing foreign veterinary graduates to be admitted to practice under certain conditions; establishing prepaid health plans; extending hospital rate limitations; establishing grievance procedures; authorizing the commissioner to select vendors for general assistance medical care; reducing ratable reductions in general assistance medical care; expanding the responsibilities of the legislative commission on long-term care; authorizing special projects and studies by the commissioner; appropriating money; amending Minnesota Statutes 1984, sections 144A.51, by adding a subdivision; 144A.52, subdivision 3; 144A.53, subdivisions 1, 2, 3, and 4; 144A.54, subdivision 1; 156.001; 156.02, subdivision 1; 156.081, subdivision 2; 156.12, subdivision 2; 256.045, subdivision 3, and by adding a subdivision; 256.969, subdivisions 1, 2, and by adding a subdivision; 256B.02, by adding a subdivision; 256B.19, subdivision 1; 256B.69, subdivision 4; 256D.03, subdivisions 4 and 6; and 626.557, subdivision 2; amending Laws 1983, chapter 199, section 17; proposing coding for new law in Minnesota Statutes, chapters 144A and 256B; repealing Minnesota Statutes 1984, sections 148.281, subdivision 1a; 156.09; 256.045, subdivision 2; and 256.966, subdivision 2."

And when so amended the bill do pass and be re-referred to the Committee on Finance. Amendments adopted. Report adopted.

Mr. Merriam from the Committee on Agriculture and Natural Resources, to which was referred

S.F. No. 222: A bill for an act relating to agriculture; providing income tax incentives to landowners who sell or lease agricultural land to beginning farmers and to banks who make loans to beginning farmers; amending Minnesota Statutes 1984, sections 290.01, subdivisions 20a and 20b; 290.361, subdivision 2; proposing coding for new law in Minnesota Statutes, chapter 290.

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

Delete everything after the enacting clause and insert:

"Section 1. [273.113] [DEFINITIONS.]

Subdivision 1. [APPLICABILITY.] The definitions in this section apply to sections 1 and 2.

Subd. 2. [AGRICULTURAL LAND.] "Agricultural land" means land within the state that, on the last day of the taxpayer's taxable year, has been

used for a period of at least five years for agricultural purposes. "Agricultural land" includes agricultural buildings and an agricultural homestead located on the land. Wetlands, naturally vegetated lands, and woodlands, contiguous to or surrounded by agricultural lands are agricultural lands if they are under the same ownership or management as the agricultural lands during the period of agricultural use.

Subd. 3. [AGRICULTURAL PURPOSES.] "Agricultural purposes" means the production of vegetables, forage, grains, or other agricultural crops, livestock or livestock products, dairy animals or dairy products, poultry or poultry products, horticultural or nursery stock, fruit, or bees and apiary products.

Subd. 4. [BEGINNING FARMER.] "Beginning farmer" means an individual who is a United States citizen and a state resident; who can or will provide proof of participation in an adult farm management program or its equivalent, if one is reasonably available; who uses or intends to use the agricultural land purchased or rented exclusively for agricultural purposes; who has prepared or will prepare a plan with the assistance of the local soil and water conservation office for the agricultural land rented or purchased; more than one-half of whose annual gross income before deducting expenses or taxes is derived from the occupation of using agricultural land for agricultural purposes, unless the person initially begins farming during the first tax year of a lease under section 2, subdivision 2; and who, together with spouse and dependents, has a total net worth valued at less than \$75,000, adjusted as provided in section 6, subdivision 4.

Subd. 5. [LANDOWNER.] "Landowner" means a partner, family farm corporation, an authorized farm corporation as defined in section 500.24, subdivision 2, that owns agricultural land, or an individual who is a United States citizen or permanent resident alien, and a Minnesota resident who owns agricultural land, except that a partner, family farm corporation, authorized farm corporation, or individual that acquires agricultural land for the purpose of obtaining the property tax credit in section 2 is not a landowner.

Sec. 2. [273.114] [BEGINNING FARMERS PROPERTY TAX CREDIT.]

Subdivision 1. [ELIGIBILITY.] A landowner that leases agricultural land to a beginning farmer under the provisions of this section shall receive a property tax credit equal to the property taxes attributable to the agricultural land under the lease.

Subd. 2. [LEASE REQUIREMENTS.] To qualify for a property tax credit under this section, the landowner must execute a written lease under this subdivision with the beginning farmer. The lease must be for a period of at least five years with an option to purchase the land by the beginning farmer. The rent stated in the lease must be on the basis of a crop share that reflects the landowner assuming part of the risk of production. The lease and option to purchase the land must be approved by the county farm lease committee under section 7. The lease is not transferable and terminates on the death or disability of the beginning farmer.

Subd. 3. [CERTIFICATION.] A landowner who claims a property tax credit under this section must certify on the form furnished by the commis-

sioner of revenue that a rental agreement with another person was not canceled to enable the landowner to enter the lease. The local assessor must certify each landowner that has received the property tax credit.

Subd. 4. [CREDITS CERTIFIED BY COUNTY AUDITORS.] The total amounts of credits allowed under subdivision 1 shall be submitted by the county auditor to the commissioner of revenue as part of the abstracts of tax lists required to be filed with the commissioner under the provisions of section 275.29. The commissioner of revenue shall review certifications to determine their accuracy. The commissioner may make necessary changes in the certification or return a certification to the county auditor for corrections.

Subd. 5. [PROPERTY TAX STATEMENT.] The amount of the property tax credit shall be reflected on the property tax statement of each eligible taxpayer.

Subd. 6. [PAYMENT OF CREDITS.] Payment shall be made according to the procedure provided in sections 273.13, subdivision 15a, and 124.2137 for the purpose of replacing revenue lost as a result of the credit provided in this section.

Subd. 7. [APPROPRIATION.] There is appropriated from the general fund in the state treasury to the commissioner of revenue and the commissioner of education the amount necessary to make the payments provided in subdivision 6.

Subd. 8. [REPORT.] The commissioner of revenue shall collect data on property tax credits paid under this section, capital gains exclusion under sections 3 and 4, and loans to beginning farmers under section 6. The commissioner shall report to the commissioner of agriculture, the senate agriculture and natural resources committee, and the house agriculture committee on the number of persons receiving tax credits, capital gain exclusion, and income tax exemption under sections 1 to 8 and other information requested by the commissioner of agriculture. The report must be submitted by January 31 each year.

Sec. 3. Minnesota Statutes 1984, section 290.01, subdivision 20b, is amended to read:

Subd. 20b. [MODIFICATIONS REDUCING FEDERAL ADJUSTED GROSS INCOME.] There shall be subtracted from federal adjusted gross income:

(1) Interest income on obligations of any authority, commission or instrumentality of the United States to the extent includible in gross income for federal income tax purposes but exempt from state income tax under the laws of the United States;

(2) The portion of any gain, from the sale or other disposition of property having a higher adjusted basis for Minnesota income tax purposes than for federal income tax purposes, that does not exceed such difference in basis; but if such gain is considered a long-term capital gain for federal income tax purposes, the modification shall be limited to 40 per centum of the portion of the gain. This modification shall not be applicable if the difference in basis is due to disallowance of depreciation pursuant to section 290.101.

(3) Income from the performance of personal or professional services

which is subject to the reciprocity exclusion contained in section 290.081, clause (a);

(4) Losses, not otherwise reducing federal adjusted gross income assignable to Minnesota, arising from events or transactions which are assignable to Minnesota under the provisions of sections 290.17 to 290.20, including any capital loss or net operating loss carryforwards or carrybacks or out of state loss carryforwards resulting from the losses, and including any farm loss carryforwards or carrybacks;

(5) If included in federal adjusted gross income, the amount of any credit received, whether received as a refund or credit to another taxable year's income tax liability, pursuant to chapter 290A, and the amount of any overpayment of income tax to Minnesota, or any other state, for any previous taxable year, whether the amount is received as a refund or credited to another taxable year's income tax liability;

(6) To the extent included in federal adjusted gross income, or the amount reflected as the ordinary income portion of a lump sum distribution under section 402(e) of the Internal Revenue Code of 1954, notwithstanding any other law to the contrary, the amount received by any person (i) from the United States, its agencies or instrumentalities, the Federal Reserve Bank or from the state of Minnesota or any of its political or governmental subdivisions or from any other state or its political or governmental subdivisions, or a Minnesota volunteer firefighter's relief association, by way of payment as a pension, public employee retirement benefit, or any combination thereof, (ii) as a retirement or survivor's benefit made from a plan qualifying under section 401, 403, 404, 405, 408, 409 or 409A of the Internal Revenue Code of 1954, or (iii) severance pay distributed to an individual upon discontinuance of the individual's employment due to termination of business operations by the individual's employer, provided that the termination is reasonably likely to be permanent, involves the discharge of at least 75 percent of the employees at that site within a one-year period, and the business is not acquired by another person who continues operations at that site. The maximum amount of this subtraction shall be \$11,000 less the amount by which the individual's federal adjusted gross income, plus the ordinary income portion of a lump sum distribution as defined in section 402(e) of the Internal Revenue Code of 1954, exceeds \$17,000. For purposes of the preceding sentence, "federal adjusted gross income" shall not include railroad retirement or social security benefit amounts provided in sections 86 and 72(r) of the Internal Revenue Code of 1954. For purposes of this clause, "severance pay" means an amount received for cancellation of an employment contract or a collectively bargained termination payment made as a substitute for income which would have been earned for personal services to be rendered in the future. In the case of a volunteer firefighter who receives an involuntary lump sum distribution of his pension or retirement benefits, the maximum amount of this subtraction shall be \$11,000; this subtraction shall not be reduced by the amount of the individual's federal adjusted gross income in excess of \$17,000;

(7) To the extent included in the taxpayer's federal adjusted gross income for the taxable year, gain recognized upon a transfer of property to the spouse or former spouse of the taxpayer in exchange for the release of the spouse's marital rights;

(8) The amount of any distribution from a qualified pension or profit sharing plan included in federal adjusted gross income in the year of receipt to the extent of any contribution not previously allowed as a deduction by reason of a change in federal law which was not adopted by Minnesota law for a taxable year beginning in 1974 or later;

(9) Interest, including payment adjustment to the extent that it is applied to interest, earned by the seller of the property on a family farm security loan executed before January 1, 1986 that is guaranteed by the commissioner of agriculture as provided in sections 41.51 to 41.60;

(10) The first \$3,000 of compensation for personal services in the armed forces of the United States or the United Nations, and the next \$2,000 of compensation for personal services in the armed forces of the United States or the United Nations wholly performed outside the state of Minnesota. This modification does not apply to compensation defined in subdivision 20b, clause (6);

(11) In the case of wages or salaries paid or incurred on or after January 1, 1977, the amount of any credit for employment of certain new employees under sections 44B and 51 to 53 of the Internal Revenue Code of 1954 which is claimed as a credit against the taxpayer's federal tax liability, but only to the extent that the credit is connected with or allocable against the production or receipt of income included in the measure of the tax imposed by this chapter;

(12) Unemployment compensation to the extent includible in gross income for federal income tax purposes under section 85 of the Internal Revenue Code of 1954;

(13) For an estate or trust, the amount of any income or gain which is not assignable to Minnesota under the provisions of section 290.17;

(14) Interest earned on a contract for deed entered into for the sale of property for agricultural use if the rate of interest set in the contract is no more than nine percent per year for the duration of the term of the contract. This exclusion shall be available only if (1) the purchaser is an individual who, together with his spouse and dependents, has a total net worth valued at less than \$150,000 and (2) the property sold under the contract is farm land as defined in section 41.52, subdivision 6 of no more than 1,000 acres that the purchaser intends to use for agricultural purposes. Compliance with these requirements shall be stated in an affidavit to be filed with the first income tax return on which the taxpayer claims the exclusion provided in this clause. Upon request accompanied by the information necessary to make the determination, the commissioner shall determine whether interest to be paid on a proposed transaction will qualify for this exclusion; the determination shall be provided within 30 days of receipt of the request, unless the commissioner finds it necessary to obtain additional information, or verification of the information provided, in which case the determination shall be provided within 30 days of receipt of the final item of information or verification. The exclusion provided in this clause shall apply to interest earned on contracts for deed entered into after December 31, 1981 and before July 1, 1983;

(15) Income from the business of mining as defined in section 290.05, subdivision 1, clause (a) which is not subject to the Minnesota income tax;

(16) To the extent included in federal adjusted gross income, distributions from a qualified governmental pension plan which represent a return of designated employee contributions to the plan and which contributions were included in gross income pursuant to subdivision 20a, clause (18). The provisions of this clause shall apply before the provisions of clause (6) apply and an amount subtracted under this clause may not be subtracted under clause (6);

(17) To the extent included in federal adjusted gross income, distributions from an individual retirement account which represent a return of contributions if the contributions were included in gross income pursuant to subdivision 20a, clause (17). The distribution shall be allocated first to return of contributions included in gross income until the amount of the contributions has been exhausted; and

(18) To the extent included in federal adjusted gross income, social security benefits as defined and as provided in section 86 of the Internal Revenue Code of 1954, railroad retirement benefits as provided in section 72(r) of the Internal Revenue Code of 1954, and sick pay paid under the Railroad Unemployment Insurance Act as provided in section 105(i) of the Internal Revenue Code of 1954, provided that any amount subtracted under this clause may not be subtracted under clause (6); and

(19) *Capital gains on the sale of agricultural land as allowed in section 4.*

Sec. 4. [290.0802] [AGRICULTURAL LAND SALE EXCLUSION.]

Subdivision 1. [DEFINITIONS.] The definitions in section 1 apply to this section.

Subd. 2. [CAPITAL GAINS EXCLUSION.] To the extent included in federal adjusted gross income, there is excluded from the gross income of a landowner, 50 percent of the capital gain recognized and otherwise taxable on the sale of agricultural land to a beginning farmer who purchases the land for agricultural purposes by exercising the option of a lease under section 2, subdivision 2. The exclusion is not allowed unless the landowner covenants on the deed that the land will be kept only in agricultural use for a period of at least ten years and that the restrictive covenant will be binding on the purchaser, the purchaser's successors and assigns, and will run with the land. The exclusion applies only to capital gain recognized during the taxable year that the sale occurred. The exclusion under this section may not exceed \$50,000.

Sec. 5. Minnesota Statutes 1984, section 290.361, subdivision 2, is amended to read:

Subd. 2. [COMPUTATION OF TAXABLE NET INCOME.] The taxable net income shall be computed in the manner provided by this chapter except that in the case of national and state banks: (a) the rates shall be as established in section 290.06, subdivision 1; (b) the basic date for the purpose of computing gain or loss and depreciation shall be January 1, 1940, instead of January 1, 1933; (c) property consisting of investments in bonds, stocks, notes, debentures, mortgages, certificates, or any evidence of indebtedness, and any property acquired in liquidation thereof when such property is held for investment or for sale, shall not be deemed to be capital assets; and (d) in computing net income there shall be allowable as a deduction from gross

income, in addition to deductions otherwise provided for in this chapter, any dividend (not including any distribution in liquidation) paid, within the taxable year, to the United States or to any instrumentality thereof exempt from federal income taxes, on the preferred stock of the bank owned by the United States or such instrumentality; and (e) in computing net income there is allowable as a deduction from gross income, in addition to deductions otherwise provided for in this chapter, income from interest on a loan made to a beginning farmer as allowed under section 6.

Sec. 6. [290.362] [DEDUCTION FOR INTEREST ON LOAN TO BEGINNING FARMER.]

Subdivision 1. [DEFINITIONS.] The definitions in section 1 apply to this section.

Subd. 2. [EXCLUSION FOR INTEREST ON LOAN TO BEGINNING FARMER.] There is allowed as a subtraction from the gross income of national and state banks the interest income earned on a loan to a beginning farmer for the purchase of at least 80 acres of agricultural land for agricultural purposes if the following conditions are met:

(1) the loan will be completely amortized in 20 years or more with equal installments and without a balloon payment at the end, or the loan is amortized in 20 years or more with a balloon payment after ten years or more; and

(2) the loan has an annual interest rate of 12 percent or less.

Subd. 3. [NET WORTH ADJUSTMENT.] The maximum net worth allowed for qualification as a beginning farmer is \$75,000 for taxable years beginning in calendar year 1985. For taxable years beginning in each calendar year after 1985, the maximum net worth amount for the previous year must be adjusted by the percentage used to adjust the taxable net income brackets as provided in section 290.06, subdivision 2d, for that taxable year. The percentage announced by the commissioner under section 290.06, subdivision 2d, is the percentage by which the maximum net worth amount is increased for sales occurring or leases first occurring during the following calendar year.

Sec. 7. [395.50] [AGRICULTURAL LAND LEASE COMMITTEE.]

Subdivision 1. [DEFINITIONS.] The definitions in section 1 apply to this section.

Subd. 2. [APPOINTMENT.] The county board of commissioners shall appoint an agricultural land lease committee consisting of five residents of the county. The committee members shall be members of the agricultural stabilization and conservation service committee unless members are unable or unwilling to serve. The members shall have three-year terms. The terms shall be staggered as provided by the county board.

Subd. 3. [LEASE.] (a) The agricultural land lease committee shall encourage eligible landowners and beginning farmers to participate in leases under section 2, subdivision 2, and section 8.

(b) The agricultural land lease committee must:

(1) review each proposed lease and evaluate the lease terms;

(2) require changes in the lease to conform to sections 2 and 8;

- (3) *consider the share amounts for crop share rentals in the county;*
- (4) *consider the amount of agricultural production inputs paid for by landowners;*
- (5) *consider the livestock facilities and their use;*
- (6) *approve leases that meet the requirements and comply with the purposes of sections 2 and 8;*
- (7) *certify the approved leases to the commissioner of revenue as being eligible for the property tax credit under section 2; and*
- (8) *certify that the beginning farmer is farming at least 80 acres of land.*

Sec. 8. [395.51] [LEASE.]

Subdivision 1. [DEFINITIONS.] The definitions in section 1 apply to this section.

Subd. 2. [REQUIREMENTS.] The lease must:

- (1) *provide that the beginning farmer has the exclusive right to occupy and farm the agricultural land under the lease;*
- (2) *require the beginning farmer to implement soil and water conservation practices that maintain the productive value of the agricultural land;*
- (3) *require the beginning farmer to use the agricultural land for farming purposes;*
- (4) *provide an option for the beginning farmer to purchase the agricultural land under the lease; and*
- (5) *the lease may not be for more tillable acres than the average farm size in the county, as determined by the commissioner of agriculture.*

Subd. 3. [EARLY TERMINATION OF LEASE.] If a lease is terminated by a landowner prior to the expiration of the minimum five-year lease period, the amount of credits received in previous years under section 2 must be added to the property tax of the landowner for the taxable year in which the lease was terminated.

Sec. 9. [EFFECTIVE DATE.]

Section 2 is effective for property taxes levied in 1985 and payable in 1986 and afterwards. Sections 3, 4, and 6 are effective for taxable years after December 31, 1984. The remaining sections are effective July 1, 1985."

Delete the title and insert:

"A bill for an act relating to agriculture; providing a property tax credit for landowners that lease agricultural land to beginning farmers; excluding a portion of the capital gains from an exercise of an option to purchase agricultural land by a beginning farmer; establishing a county lease committee to approve leases to beginning farmers; exempting interest on agricultural loans made to beginning farmers; appropriating money; amending Minnesota Statutes 1984, sections 290.01, subdivision 20b; 290.361, subdivision 2; proposing coding for new law in Minnesota Statutes, chapters 273, 290, and 395."

And when so amended the bill do pass and be re-referred to the Committee

on Taxes and Tax Laws. Amendments adopted. Report adopted.

Mr. Merriam from the Committee on Agriculture and Natural Resources, to which was referred

S.F. No. 806: A bill for an act relating to the environment; providing for the regulation of underground storage tanks; proposing coding for new law in Minnesota Statutes, chapter 116.

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

Page 1, line 23, after the semicolon, insert "or"

Page 1, line 24, delete "thereof"

Page 1, line 25, delete "which" and insert "that" and delete "standard conditions of" and insert "a"

Page 1, line 25, delete "and" and insert "of"

Page 2, line 1, delete "pressure (" and after "and" insert "pressure of"

Page 2, line 2, delete the parenthesis

Page 2, line 9, delete everything after "means"

Page 2, delete line 10 and insert "a container and its connected"

Page 2, line 11, delete "connected thereto, which" and insert "that"

Page 2, line 12, delete "an accumulation of" and delete "and the volume"

Page 2, delete line 13

Page 2, line 14, delete "connected to them," and insert "that"

Page 2, line 22, after "facilities" insert a comma and delete the parentheses and after "lines" insert a comma

Page 2, line 30, delete "(such as a" and insert "including"

Page 2, line 31, delete everything before "if" and insert "basements, cellars, mineworkings, drifts, shafts, and tunnels,"

Page 3, line 6, delete "permanently taken out of" and insert "that is not in" and delete "on or after"

Page 3, line 8, delete "his"

Page 3, line 9, delete "or her" and insert "the owner's"

Page 3, line 14, after "of" insert "permanent removal from service or"

Page 3, line 23, delete "which he" and insert "that the person"

Page 3, line 31, delete "proposing" and insert "adopting"

Page 3, line 32, delete "underground storage" and insert "regulated substances as defined in section 1, subdivision 6, clause (1). The agency shall delay adopting the rules for regulated substances, as defined in section 1, subdivision 6, clause (2), until the United States Environmental Protection Agency publishes final regulations for underground storage tanks or Febru-

ary 8, 1987, whichever is earlier."

Page 3, delete line 33

Page 4, delete section 5 and insert:

"Sec. 5. [LOCAL ORDINANCES.]

No local unit of government shall require notification for underground storage tanks or enact rules or ordinances that establish environmental protection requirements for underground tanks that conflict with those adopted by the agency."

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

Mr. Spear from the Committee on Judiciary, to which was re-referred

S.F. No. 1159: A bill for an act relating to corporations; regulating corporate take-overs and control share acquisitions; defining terms; prescribing penalties; amending Minnesota Statutes 1984, sections 80B.01, subdivisions 6, 8, and 9; 80B.03, subdivisions 1, 2, 4a, 5, and 6; 80B.05; 80B.06, subdivision 7; 80B.07, subdivision 3; 80B.10, subdivisions 1, 4, and by adding a subdivision; 302A.011, subdivisions 37, 39, and by adding a subdivision; 302A.449, subdivision 7; and 302A.671; repealing Minnesota Statutes 1984, section 80B.06, subdivisions 3, 4, and 6.

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

Page 6, line 1, after "to" insert "this" and strike "80B.03"

Page 12, line 19, after "or" insert "in" and after "bylaws" insert "approved by the shareholders"

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

Mr. Moe, D.M. from the Committee on Governmental Operations, to which was referred

H.F. No. 98: A bill for an act relating to retirement; expanding the availability of certain appropriations for actuarial services.

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

Page 1, delete section 2 and insert:

"Sec. 2. [DULUTH TEACHERS; AMENDMENT OF ARTICLES.]

Authorization is hereby granted in accordance with Minnesota Statutes, section 354A.12, subdivision 4, for the Duluth teachers retirement fund association to amend its articles of incorporation to authorize an annual lump sum postretirement adjustment payable to retirees or beneficiaries.

The amendment may provide that the board of trustees shall have the discretion to eliminate or reduce the adjustment in any fiscal year and to establish a minimum period during which a recipient must have been receiving

an annuity or benefits in order to be eligible for an adjustment, which shall be at least three years. The adjustment shall only be made if the investment income of the fund during the preceding fiscal year was at least six percent of the asset value of the fund at the end of that fiscal year. The amount that each eligible annuitant or benefit recipient shall be entitled to receive shall be determined as follows:

(a) the years of service of each annuitant as credited by the fund and the years of service of each person on behalf of whom a survivor benefit is paid as credited by the fund and the years receiving payments shall be totaled;

(b) the dollar amount equal to up to one percent of the asset value of the fund at the end of the previous fiscal year shall be determined by the board of trustees;

(c) the dollar amount determined pursuant to clause (b) shall be divided by the aggregate years of credited service and years receiving payments in a manner determined by the board of trustees pursuant to clause (a), the result is to be considered the adjustment figure per unit;

(d) for each eligible annuitant and benefit recipient, the adjustment shall be equal to the adjustment figure per unit determined pursuant to clause (c) multiplied by the combination of years of service and years receiving payments as determined by the board of trustees based on the records of the fund.

Sec. 3. Laws 1979, chapter 109, section 1, as amended by Laws 1981, chapter 157, section 1, is amended to read:

Section 1. Authorization is hereby granted in accordance with Minnesota Statutes, Section 354A.12, for the St. Paul teachers retirement fund association to amend its bylaws as follows:

(1) Paragraph 9 of Section 3 of Article IV of the bylaws may be amended to provide a lump sum payment to annuitants and survivor benefit recipients who have been receiving annuities or benefits for at least three years, payable ~~three~~ six months following the end of a fiscal year. The payments shall only be made if the investment income of the fund during the preceding fiscal year was ~~in excess of 5-1/2~~ at least six percent of the asset value of the fund at the end of that fiscal year. The amount that each eligible annuitant or benefit recipient shall be entitled to receive shall be determined as follows:

(a) The years of service of each annuitant as credited by the fund and the years of service of each person on behalf of whom a survivor benefit is paid as credited by the fund shall be totaled;

(b) The dollar amount equal to one-half of one percent of the asset value of the fund at the end of the previous fiscal year shall be determined;

(c) The dollar amount determined pursuant to clause (b) shall be divided by the aggregate years of credited service totaled pursuant to clause (a); the result to be considered the bonus figure per year of service credit;

(d) For each eligible annuitant and benefit recipient, the payment shall be equal to the bonus figure per year of service credit determined pursuant to clause (c) multiplied by each year of service credited for that person by the fund.

(2) A new paragraph may be added to Section 2 of Article IV of the bylaws to

provide that any active member of the fund with service credit prior to July 1, 1978 who elects in the social security referendum to become a coordinated member shall be entitled to a retirement annuity when otherwise qualified, the calculation of which shall utilize the formula specified in Laws 1977, Chapter 429, Section 61 for that portion of credited service which was served prior to July 1, 1978 and the new coordinated formula specified in the bylaws for the remainder of credited service, both applied to the average salary as specified in Paragraph 2 of Section 1 of Article IX. The formula percentages to be used in calculating the coordinated portion of a retirement annuity on coordinated service shall recognize the coordinated service as a continuation of any service prior to July 1, 1978.

(3) Paragraph 5 of Section 3 of Article IV of the bylaws in effect on June 1, 1978 may be amended to provide that the recomputation of a disability benefit in an amount equal to a service pension shall occur when the member attains the age of 60 years and shall be recomputed without any reduction for early retirement, and that if the disability terminates prior to age 60 the member shall be eligible for benefits as provided in Paragraph 1 of Section 3 of Article IV and the years of service and final average salary accrued to disability termination date would be used as provided in Paragraph 5 of Section 3 of Article IV of the bylaws in effect June 1, 1978 and that Paragraph 3 of Section 4 of Article IV be amended to conform to this provision.

(4) Article VIII of the bylaws in effect July 1, 1978 may be amended by adding a new section 5 providing augmentation of benefits in the same manner as Minnesota Statutes 1978, Section 354.55, Subdivision 11.

(a) the years of service of each annuitant as credited by the fund and the years of service of each person on behalf of whom a survivor benefit is paid as credited by the fund and the years receiving payments shall be totaled;

(b) the dollar amount equal to up to one percent of the asset value of the fund at the end of the previous fiscal year shall be determined by the board of trustees;

(c) the dollar amount determined pursuant to clause (b) shall be divided by the aggregate years of credited service and years receiving payments in a manner determined by the board of trustees pursuant to clause (a), the result is to be considered the bonus figure per unit;

(d) for each eligible annuitant and benefit recipient, the bonus payment shall be equal to the bonus figure per unit determined pursuant to clause (c) multiplied by the combination of years of service and years receiving payments as determined by the board of trustees based on the records of the fund.

Sec. 4. [MINNEAPOLIS TEACHERS AMENDMENT.]

Pursuant to Minnesota Statutes, section 354A.12, subdivision 4, authority is hereby granted to the Minneapolis teachers' retirement fund association to amend subsection (11) of article IX of its articles of incorporation to eliminate the maximum of 30 years of service which may be used in the computation of formula annuities.

Sec. 5. [RATIFICATION OF RESCISSION BY FARIBAULT CITY COUNCIL.]

The action of the Faribault city council of March 26, 1985, rescinding the

adoption of the resolution of the Faribault city council of August 8, 1980, exempting from phase out the Faribault police and firefighters relief associations, is ratified and confirmed.

By rescission of the resolution of August 8, 1980, and the enactment of the March 26, 1985, resolution, all salaried firefighters and police officers hired prior to October 23, 1984, shall remain as members of the Faribault firefighters relief association or Faribault relief association, whichever is applicable. All salaried firefighters and police officers hired on or after October 23, 1984, shall be members of the public employees retirement association.

By rescission of the resolution of August 8, 1980, the provisions of Laws 1980, chapter 607, article 15, sections 4, 5, and 7, are made applicable to the municipality and relief associations, where applicable.

Sec. 6. [PAYMENT OF AMORTIZATION STATE AID.]

Pursuant to Laws 1980, chapter 607, article 15, section 5, the city of Faribault, having modified the coverage of its salaried firefighters and police, shall be entitled to the payment of the amounts of amortization state aid as provided by law now coded in Minnesota Statutes, section 423A.02.

The amounts of the amortization state-aid payments for years after 1984 shall be paid to the city of Faribault following application to the commissioner of finance pursuant to section 432A.02.

Sec. 7. [LUMP SUM PAYMENT TO RETIREES.]

Subdivision 1. [ENTITLEMENT.] Any person who was entitled to receive a lump sum payment under the provisions of Laws 1983, chapter 246, section 1, subdivision 1, or any person receiving an annuity from the Minneapolis employees retirement fund which was computed under the laws in effect prior to March 5, 1974, shall be entitled to receive a lump sum payment from the applicable retirement fund in the amount specified in subdivision 2.

Subd. 2. [CALCULATION OF LUMP SUM; PAYMENT.] Any person entitled to receive a lump sum payment pursuant to subdivision 1, and who is receiving an annuity or benefit on November 30, 1985, or on November 30, 1986, shall receive a lump sum payment for each full year of allowable service credited to the person by the respective retirement fund. For both 1985 and 1986 the amount for each full year of allowable service shall be \$35 for persons receiving a basic annuity or benefit and \$20 for persons receiving a coordinated annuity or benefit. The lump sum payment provided for in this section shall be payable on December 1, 1985, for persons receiving an annuity or benefit on November 30, 1985, and on December 1, 1986, for persons receiving an annuity or benefit on November 30, 1986. Nothing in this section shall authorize the payment of a lump sum payment to an estate. Notwithstanding Minnesota Statutes, section 356.18, the lump sum payment provided for in this section shall be paid automatically unless the intended recipient files a written notice with the retirement fund requesting that the lump sum payment not be paid.

Subd. 3. [COVERED RETIREMENT FUNDS.] The lump sum payment provided for in this section shall apply to the following retirement funds:

- (1) public employees retirement fund;*
- (2) public employees police and fire fund;*

(3) teachers retirement fund;

(4) state patrol retirement fund;

(5) state employees retirement fund of the Minnesota state retirement system; and

(6) Minneapolis employees retirement fund.

Subd. 4. [TERMINAL AUDIT.] Each covered retirement fund as specified in subdivision 3 shall, as soon as is practical following the payment of the December 1, 1986, lump sum payment, calculate the amount of any appropriation apportioned to it which is in excess of the amounts required to pay the lump sum payment provided for in this section. The calculations required by this subdivision shall be reported to and verified by the commissioner of finance and amounts equal to these reported excess appropriation amounts shall be returned to the general fund.

Sec. 8. [APPROPRIATION.]

There is appropriated during the 1986-1987 biennium, the amount of \$18,399,665 for the purpose of funding the lump sum payments provided for in this section. The appropriation shall be apportioned to the retirement funds paying the lump sum payment as follows:

	FY 1986	FY 1987
public employees retirement fund	\$ _____	\$ _____
public employees police and fire fund	_____	_____
teachers retirement fund	_____	_____
state patrol retirement fund	_____	_____
state employees retirement fund	_____	_____
Minneapolis employees retirement fund	_____	_____

Sec. 9. [EFFECTIVE DATE.]

Sections 1 to 5 are effective the day following final enactment. The remaining sections are effective July 1, 1985."

Amend the title as follows:

Page 1, line 3, before the period, insert "; authorizing amendments for the Duluth, Minneapolis, and St. Paul teachers retirement fund associations; approving the rescission of exemption from modification of pension coverage for Faribault firefighters and police relief associations; providing lump sum payments to certain retired or disabled public employees; appropriating money; amending Laws 1979, chapter 109, section 1, as amended"

And when so amended the bill do pass and be re-referred to the Committee on Finance. Amendments adopted. Report adopted.

Mr. Pehler from the Committee on Education, to which was referred

H.F. No. 282: A bill for an act relating to education; declaring the mission of public elementary and secondary education in Minnesota; proposing coding for new law in Minnesota Statutes, chapter 120.

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

Page 1, line 8, delete "MISSION" and insert "PURPOSE"

Page 1, line 9, delete "upon" and insert "in"

Page 1, after line 16, insert:

"Sec. 2. [PURPOSE.]

The legislature intends to continue the operation of the residential academies for the deaf, for the blind, and multiple handicapped. The academies shall provide a residential learning program for students with the following handicapping conditions: hearing impairment, visual impairment, and multiple handicaps. The learning program shall be a developmental program that provides instruction to address motor, cognitive, language, emotional, and social development in the classroom and dormitory. The learning program shall be designed to help students acquire knowledge, skills, and positive attitudes toward self and others that will enable them to solve problems, continue learning, and develop maximum potential for leading productive fulfilling lives.

Sec. 3. Minnesota Statutes 1984, section 128A.01, is amended to read:

128A.01 [LOCATION.]

The Minnesota ~~school~~ *state academy* for the deaf and the Minnesota ~~braille and sight-saving school~~ *state academy for the blind* shall be continued at Faribault, and shall be grouped and classed with the educational institutions of the state.

Sec. 4. Minnesota Statutes 1984, section 128A.02, is amended to read:

128A.02 [TRANSFER OF AUTHORITY STATE BOARD DUTIES AND POWERS.]

Subdivision 1. The state board of education ~~shall be~~ is responsible for the control, management and administration of the Minnesota ~~school state academy~~ for the deaf and the Minnesota ~~braille and sight-saving school state academy for the blind~~; and ~~all the property real or personal appertaining thereto~~. At the request of the state board, the department of education shall be responsible for program leadership, program monitoring, and technical assistance at the academies. The department shall assist the state board in the preparation of reports.

Subd. 1a. For the purpose of the programs listed in this subdivision, the academies are a school district and may participate in the following:

- (1) basic skills program under section 121.495;
- (2) subject area in-service training under section 121.601;
- (3) instructional effectiveness plan and training under sections 121.608 and 121.609;
- (4) the Minnesota academic excellence act under section 121.612;
- (5) advanced academic credit under section 123.3513;
- (6) ECSUs under section 123.58;
- (7) in-service training programs under section 123.581;
- (8) the planning, evaluating, and reporting process under sections 123.741

to 123.7431;

(9) gifted and talented aid under section 124.247;

(10) limited English proficiency program aid under section 124.273;

(11) chemical abuse aid and instruction under sections 124.246 and 126.031;

(12) programs of excellence under sections 126.60 to 126.64;

(13) the pupil fair dismissal act under sections 127.26 to 127.42; and

(14) all grant programs under chapter 129B.

Participation in programs listed in this subdivision may not result in payment of aid or a grant to the academies and another school district for the same pupil.

Subd. 1b. By July 1, 1986, the academies shall comply with the uniform financial accounting and reporting system under sections 121.90 to 121.917, subject to variances developed by the advisory council and adopted by the state board.

Subd. 2. The state board ~~may~~ shall promulgate rules regarding the operation of both ~~schools~~ academies and the individuals in attendance, and shall perform all duties necessary to provide the most beneficial and least restrictive program of education for each child handicapped by visual disability or hearing impairment.

Subd. 2a. The state board shall develop a two-year plan for the academies and update it annually. The plan shall include at least the following:

(1) interagency cooperation;

(2) financial accounting;

(3) cost efficiencies;

(4) staff development;

(5) program and curriculum development;

(6) use of technical assistance from the department;

(7) criteria for program and staff evaluation;

(8) pupil performance evaluation;

(9) follow-up study of graduates;

(10) implementation of the requirements of chapter 128A;

(11) communication procedures with districts of pupils attending the academies; and

(12) coordination between the instructional and residential programs.

The state board shall submit the plan and recommendations for improvement to the education committees of the legislature by January 15 of each odd-numbered year.

Subd. 3. The state board may employ central administrative staffs and other personnel as necessary to provide and support programs and services in

each school academy. The board ~~may~~ shall place the position of the residential school academy administrator in the unclassified service and may place any other position in the unclassified service if the position is one that reports to the board and if it meets the criteria established in section 43A.08, subdivision 1a. These schools academies ~~shall be~~ are deemed to be public schools for the purposes of sections 125.03 and 125.04, and all teachers as defined in those sections who are employed at these schools academies shall be are subject to the standards of the board of teaching and the state board of education; ~~provided that any teacher who does not meet these standards as of July 1, 1977 shall be required to meet these standards by September 15, 1980 in order to continue in employment.~~ Instructional supervisory staff shall have appropriate post-secondary credits from a teacher education program for teachers of the deaf or blind and have experience in working with handicapped pupils.

Subd. 3a. All staff employed by the academy for the deaf are required to have sign language communication skills. Staff employed by the academy for the blind must be knowledgeable in Braille communication. An employee hired after August 1, 1985 shall not attain permanent status until the employee is proficient in sign language communication skills or is knowledgeable in Braille communication, as applicable.

Subd. 4. The state board may enter into contracts with other public and private agencies and institutions to provide residential and building maintenance services if it determines that these services could thus be provided in a more efficient and less expensive manner. The state board may also enter into contracts with public and private agencies and institutions, school districts or combinations thereof, and educational cooperative service units to provide supplementary educational instruction and services, including assessments and counseling.

Subd. 5. The state board of education may by agreement with teacher preparing institutions or accredited institutions of higher education arrange for practical experience in the Minnesota school academy for the deaf and the Minnesota braille and sight-saving school academy for the blind for practice or student teachers, or for other students engaged in fields of study which prepare professionals to provide special services to handicapped children in school programs, who have completed not less than two years of an approved program in their respective fields. These student trainees shall be provided with appropriate supervision by a teacher licensed by the board of teaching or by a professional licensed or registered in the appropriate field of special services and shall be deemed employees of the school for the deaf or the braille and sight-saving school either academy, as applicable, for purposes of workers' compensation.

Subd. 5a. The state board is encouraged to develop, in cooperation with the Faribault area vocational technical institute and the Austin community college, or any other public post-secondary institution, courses of instruction to train individuals for employment as dormitory staff. The department of employee relations, in cooperation with the state board, shall develop a statement of necessary qualifications and skills for dormitory staff.

Subd. 6. The rules of the state board pursuant to this section shall establish procedures for admission to, including short-term admission, and discharge

from the ~~schools~~ *academies*, for decisions on a child's program at the ~~schools~~ *academies* and for evaluation of the progress of children enrolled in the ~~schools~~ *academies*. *Discharge procedures must include reasonable notice to the district of residence.* These procedures shall guarantee children and their parents appropriate procedural safeguards, including a review of the placement determination made pursuant to sections 120.17 and 128A.05, and the right to participate in educational program decisions. Notwithstanding the provisions of section 14.02, proceedings concerning admission to and discharge from the ~~schools~~ *academies*, a child's program at the ~~schools~~ *academies* and a child's progress at the ~~schools~~ *academies* shall not be deemed to be contested cases subject to sections 14.01 to 14.70 but shall be governed instead by the rules of the state board pursuant to this section.

Sec. 5. Minnesota Statutes 1984, section 128A.03, is amended to read:

128A.03 [ADVISORY COUNCIL.]

Subdivision 1. The state board of education ~~may~~ *shall* appoint an advisory ~~task force~~ *council* on the Minnesota ~~School~~ *state academy* for the Deaf and an advisory ~~task force~~ *council* on the Minnesota ~~braille and sight-saving School~~ *state academy for the blind* to advise the board on policies pertaining to the control, management, and administration of these ~~schools~~ *academies*.

Subd. 2. ~~If created~~ The members shall be representative of the various geographic regions of the state, shall include parents or guardians of visually disabled or hearing impaired children, shall include a staff representative of the applicable ~~school~~ *academy*, and shall include two representatives from groups representing the interests of visually disabled or hearing impaired individuals, as applicable. All members shall have knowledge, experience and interest in the problems of visually disabled or hearing impaired children.

Subd. 3. The ~~task forces~~ *shall expire and the* terms, compensation and removal of ~~council~~ *council* members shall be as provided in section 15.059, ~~subdivisions 2, 3, and 4.~~ *The council shall not expire.*

Sec. 6. Minnesota Statutes 1984, section 128A.05, is amended to read:

128A.05 [ATTENDANCE.]

Subdivision 1. Any individual who is ~~between four and 21 years of age and who is deaf or hard of hearing impaired~~ *shall be* is entitled to attend the ~~school~~ *academy* for the deaf if it is determined, pursuant to the provisions of section 120.17, that the nature or severity of the hearing impairment is such that education in regular or special education classes provided for by the school district of residence cannot be achieved satisfactorily and that attendance at the ~~school~~ *academy* would be the least restrictive alternative for that individual. *A deaf or hearing impaired child also may be admitted to acquire socialization skills. Short-term admission for skills development is also permitted.* Nothing in this subdivision shall be construed as a limitation on the attendance at this ~~school~~ *academy* of children who have other handicaps in addition to being deaf or ~~hard of hearing impaired~~.

Subd. 2. Any individual who is ~~between four and 21 years of age and who is blind visually impaired, blind-deaf, or partially seeing multiple handicapped~~ *shall be* is entitled to attend the ~~braille and sight-saving school~~ *academy for the blind* if it is determined, pursuant to the provisions of section 120.17, that the

nature or severity of the visual impairment is such that education in regular or special education classes provided for by the school district of residence cannot be achieved satisfactorily and that attendance at the ~~school~~ academy would be the least restrictive alternative for that individual. A *visually impaired child may be admitted to acquire socialization skills. Short-term admission for skills development is also permitted.* Nothing in this subdivision shall be construed as a limitation on the attendance at this ~~school~~ academy of children who have other handicaps in addition to being blind or ~~partially seeing visually impaired.~~

Subd. 3. Attendance at the ~~school~~ academy for the deaf and the ~~braille and sight-saving schools~~ academy for the blind ~~shall be~~ is subject to the compulsory attendance provisions of section 120.10 except that attendance may be excused pursuant to that section by the commissioner of education or his designee. Any person failing to comply with the provisions of section 120.10 ~~shall be~~ is subject to the provisions of section 120.12. The superintendent of the applicable ~~school~~ academy shall exercise the duties imposed by section 120.12. Attendance at the ~~school~~ academy for the deaf or the ~~braille and sight-saving school~~ academy for the blind shall fulfill the mandatory requirements of section 120.17. *The academies are subject to sections 127.26 to 127.39.*

Sec. 7. [UFARS VARIANCES.]

The advisory council on uniform financial accounting and reporting standards shall develop variances to the standards to account for the unique financial status of the academies. The variances shall be reported to the state board by December 31, 1985.

Sec. 8. [STATE BOARD PROGRESS REPORT.]

By February 15, 1986, the state board shall submit a progress report to the education committees of the legislature on the status of the academies in meeting statutory provisions relating to the academies.

Sec. 9. [EMPLOYEE TRAINING FOR COMMUNICATION AND BRAILLE SKILLS.]

The state board of education shall provide to people employed by the academies on August 1, 1985 training in sign language communications skills or Braille communication, according to the academy in which the person is employed. If an employee fails to become proficient in the appropriate communication method within 12 months after training is provided, that failure shall be just cause for dismissal.

Sec. 10. [MANAGEMENT AND GOVERNANCE REPORT.]

The management analysis unit of the department of administration, in cooperation with the department of education, shall study the management organization structure and the governance of the academies. The actual cost of the study may be charged to and shall be paid by the academies. By January 15, 1986, they shall report findings and recommendations to the education committees of the legislature and to the state board of education."

Amend the title as follows:

Page 1, line 2, delete "mission" and insert "purpose"

Page 1, line 3, delete "elementary and secondary" and after the semicolon, insert "changing the name of and provisions about the Minnesota school for the deaf and the Minnesota braille and sight saving school; authorizing the academies to participate in certain state programs; requiring annual development of two-year plans for the academies; allowing for certain positions at the academies to be in the unclassified service; amending Minnesota Statutes 1984, sections 128A.01; 128A.02; 128A.03; and 128A.05;"

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

Mr. Moe, D.M. from the Committee on Governmental Operations, to which was referred

H.F. No. 729: A bill for an act relating to retirement; providing for an increased redemption benefit option for participants in the Hennepin county supplemental retirement program; allowing withdrawal from the program; amending Laws 1969, chapter 950, sections 1, subdivision 1, as amended; and 4, as amended; and Laws 1983, chapter 100, section 1.

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

Page 1, after line 10, insert:

"Section 1. Minnesota Statutes 1984, section 69.011, subdivision 1, is amended to read:

Subdivision 1. [DEFINITIONS.] Unless the language or context clearly indicates that a different meaning is intended, the following words and terms shall for the purposes of this chapter and chapters 423, 424 and 424A have the meanings ascribed to them:

(a) "Commissioner" means the commissioner of revenue.

(b) "Municipality" means any home-rule charter or statutory city, organized town or park district subject to chapter 398, *and the University of Minnesota*.

(c) "Minnesota Firetown Premium Report" means a form prescribed by the commissioner containing space for reporting by insurers of fire, lightning, sprinkler leakage and extended coverage premiums received upon risks located or to be performed in this state less return premiums and dividends.

(d) "Firetown" means the area serviced by any municipality having a qualified fire department or a qualified incorporated fire department having a subsidiary volunteer firefighters relief association.

(e) "Assessed Property Valuation" means latest available assessed value of all property in a taxing jurisdiction, whether the property is subject to taxation, or exempt from ad valorem taxation obtained from information which appears on abstracts filed with the commissioner of revenue or equalized by the state board of equalization.

(f) "Minnesota Aid to Police Premium Report" means a form prescribed by the commissioner for reporting by each fire and casualty insurer of all premiums received upon direct business received by it in this state, or by its

agents for it, in cash or otherwise, during the preceding calendar year, with reference to insurance written for insuring against the perils contained in auto liability-bodily injury, auto liability-property damage, and auto physical damage as reported in the Minnesota business schedule of the fire and casualty insurance companies annual financial statement which each insurer is required to file with the commissioner in accordance with the governing laws or regulations less return premiums and dividends.

(g) "Peace officer" means any person:

(1) Whose primary source of income derived from wages is from direct employment by a municipality or county as a law enforcement officer on a full time basis of not less than 30 hours per week;

(2) Who has been employed for a minimum of six months prior to December 31 preceding the date of the current year's certification pursuant to subdivision 2, clause (b);

(3) Who is sworn to enforce the general criminal laws of the state and local ordinances;

(4) Who is licensed by the peace officers standards and training board and is authorized to arrest with a warrant; and

(5) Who is a member of a local police relief association to which section 69.77 applies or the public employees police and fire fund.

(h) "Full time equivalent number of peace officers providing contract service" means the integral or fractional number of peace officers which would be necessary to provide the contract service if all peace officers providing service were employed on a full time basis as defined by the employing unit and the municipality receiving the contract service.

(i) "Retirement benefits other than a service pension" means any disbursement authorized pursuant to section 424.05, subdivision 3, clauses (2), (3) and (4).

(j) "Municipal clerk, municipal clerk-treasurer or county auditor" means the person who was elected or appointed to the specified position or, in the absence of the person, another person who is designated by the applicable governing body. In a park district the clerk is the secretary of the board of park district commissioners. *In the case of the University of Minnesota, the clerk is that official designated by the board of regents.*

Sec. 2. Minnesota Statutes 1984, section 69.26, is amended to read:

69.26 [RELIEF ASSOCIATIONS SELF GOVERNING.]

Subdivision 1. Each relief association shall be organized, operated, and maintained in accordance with its own articles of incorporation and bylaws, by firefighters, as defined in section 69.27, who are members of the fire departments. Each association shall have power to regulate its own management and its own affairs, and all additional corporate powers which may be necessary or useful; subject to the regulations and restrictions of the laws of

this state pertaining to corporations not inconsistent herewith.

Subd. 2. Each relief association may provide for the participation of retired members of the fire departments in the governance of the association as each association deems appropriate. The bylaws of the associations may be amended to provide retired members the right to vote, to be elected to the board and to pay dues.

Sec. 3. Minnesota Statutes 1984, section 353.01, subdivision 2a, is amended to read:

Subd. 2a. [INCLUDED EMPLOYEES.] The following persons are included in the meaning of "public employee":

- (a) Elected or appointed officers and employees of elected officers.
- (b) District court reporters.
- (c) Officers and employees of the public employees retirement association.
- (d) Employees of the League of Minnesota Cities.
- (e) Officers and employees of public hospitals, owned or operated by or an integral part of, any governmental subdivision or governmental subdivisions.
- (f) Employees of a school district who receive separate salaries for driving their own buses.
- (g) Employees of the Association of Minnesota Counties.
- (h) Employees of the Metropolitan Inter-County Association.
- (i) Employees of the Minnesota Municipal Utilities Association.
- (j) Employees of the metropolitan airports commission if employment initially commences on or after July 1, 1979.
- (k) Employees of the Minneapolis employees retirement fund, if employment initially commences on or after July 1, 1979.
- (l) Employees of the Range Association of Municipalities and Schools.
- (m) Employees of the soil and water conservation districts.
- (n) *Employees of a county historical society.*

Sec. 4. Minnesota Statutes 1984, section 422A.101, subdivision 3, is amended to read:

Subd. 3. [STATE CONTRIBUTIONS.] The state shall pay to the Minneapolis employees retirement fund annually an amount equal to the financial requirements of the Minneapolis employees retirement fund reported by the actuary in the actuarial valuation of the fund prepared pursuant to section 356.215 for the most recent year but based on a target date for full amortization of the unfunded liabilities by the year 2017 less the amount of employee contributions required pursuant to section 422A.10, and the amount of employer contributions required pursuant to subdivisions 1a and 2, and the amount of contributions required of the metropolitan airports commission by subdivision 4. Payments shall be made in four equal installments on March 15, July 15, September 15, and November 15 annually.

Sec. 5. Minnesota Statutes 1984, section 422A.101, is amended by adding

a subdivision to read:

Subd. 4. [METROPOLITAN AIRPORTS COMMISSION CONTRIBUTION.] The metropolitan airports commission shall pay to the Minneapolis employees retirement fund annually in installments as specified in subdivision 3, that share of the additional support rate required for full amortization of the unfunded liabilities by the year 2017 which is attributable to commission employees who are members of the fund. The amount of the payment shall be determined by the most recent actuarial valuation, as calculated by the actuary for the legislative commission on pensions and retirement.

Sec. 6. Minnesota Statutes 1984, section 423A.02, is amended to read:

423A.02 [LOCAL POLICE AND FIREFIGHTERS' RELIEF ASSOCIATION AMORTIZATION STATE AID.]

Subdivision 1. Any municipality in which is located a local police or salaried firefighters' relief association to which the provisions of section 69.77, apply, unless the municipality has adopted a municipal resolution retaining the local relief association pursuant to section 423A.01, subdivision 1, shall be entitled upon annual application on or before the date specified as required by the commissioner of finance to receive local police and salaried firefighters' relief association amortization state aid if the municipality and the appropriate relief association both comply with the applicable provisions of sections 69.031, subdivision 5, 69.051, subdivisions 1 and 3, and 69.77. The amount of local police and salaried firefighters' relief association amortization state aid to which a municipality is entitled annually shall be an amount equal to the level annual dollar amount required to amortize, by December 31, 2010, the unfunded accrued liability of the special fund of the appropriate relief association as reported in the most recent December 31, 1978, actuarial valuation of the relief association prepared pursuant to Minnesota Statutes 1978, sections 356.215 and 356.216, and filed with the commissioner of commerce on the date of final enactment of Laws 1980, chapter 607, reduced by the dollar amount required to pay the interest on the unfunded accrued liability of the special fund of the relief association for the calendar year next following the date of final enactment of Laws 1980, chapter 607, 1981 set at the rate specified in Minnesota Statutes 1978, section 356.215, subdivision 4, clause (4). Payment of local police and salaried firefighters' relief association amortization state aid to municipalities shall be made directly to the municipalities involved in four equal installments on March 15, July 15, September 15 and November 15 annually. Upon receipt of the local police and salaried firefighters' relief association amortization state aid, the municipal treasurer shall transmit the aid amount to the treasurer of the local relief association for immediate deposit in the special fund of the relief association. The commissioner of finance shall prescribe and periodically revise the form for and content of the annual application for the local police and salaried firefighters' relief association amortization state aid. The amounts required to pay the local police and salaried firefighters' relief association amortization state aid are hereby annually appropriated from the general fund to the commissioner of finance.

Subd. 2. Any municipality which has qualified for amortization state aid under subdivision 1 shall continue upon application to be entitled to receive amortization state aid and supplementary amortization state aid authorized

by Laws 1984, chapter 564, section 48, after the local police or salaried firefighters' relief association has been consolidated into the public employees police and fire fund.

Sec. 7. [423A.07] [ADDITIONS TO BOARD.]

Notwithstanding any other law, each local police and salaried firefighters relief association may amend its bylaws and its articles of incorporation, if necessary, to provide for the inclusion of retirees on its board.

Upon adoption of the amendments, the relief association must file a copy of the amended bylaws with the executive secretary of the legislative commission on pensions and retirement. A relief association amending its articles of incorporation must comply with any statutory requirements pertaining to the filing of amended articles of incorporation.

Sec. 8. Minnesota Statutes 1984, section 423A.15, is amended to read:

423A.15 [EFFECT OF PROVISIONS FOR EXISTING DISABILITY BENEFIT RECIPIENTS.]

The provisions of section 423A.06 shall apply to any member of any applicable local relief association in active service on or after March 24, 1982. The provisions of section 423A.11 shall apply to any person receiving a disability benefit from a local relief association on or after March 24, 1982. The provisions of section 423A.12 shall apply to any person who returns to active employment as a police officer or firefighter, whichever is applicable, after receipt of a permanent disability benefit on or after March 24, 1982. The provisions of section 423A.14 shall apply to any person who first commences receipt of a disability benefit after March 24, 1982.

Sec. 9. Minnesota Statutes 1984, section 424A.02, subdivision 6, is amended to read:

Subd. 6. [PAYMENT OF SERVICE PENSIONS; NONASSIGNABILITY.] The method of calculating service pensions shall be applied uniformly *for all years of active service and credit shall be given for all years of active service*, except as otherwise provided in this section. No service pension shall be paid to any person while the person remains an active member of the respective fire department, and no person who is receiving a service pension shall be entitled to receive any other benefits from the special fund of the relief association. No service pension or ancillary benefits paid or payable from the special fund of a relief association to any person receiving or entitled to receive a service pension or ancillary benefits shall be subject to garnishment, judgment, execution or other legal process, except as provided in section 518.611. No person entitled to a service pension or ancillary benefits from the special fund of a relief association may assign any service pension or ancillary benefit payments, nor shall the association have the authority to recognize any assignment or pay over any sum which has been assigned.

Sec. 10. Minnesota Statutes 1984, section 424A.02, subdivision 9, is amended to read:

Subd. 9. [LIMITATION ON ANCILLARY BENEFITS.] Any relief association may pay ancillary benefits which would constitute an authorized disbursement as specified in section 424A.05 subject to the following limita-

tions:

(a) With respect to a relief association in which governing bylaws provide for a lump sum service pension to a retiring member, no ancillary benefit may be paid to any former member or paid to any person on behalf of any former member after the former member (1) terminates active service with the fire department and active membership in the relief association; and (2) commences receipt of a service pension as authorized pursuant to this section; and

(b) With respect to any relief association, no ancillary benefit paid or payable to any member, to any former member, or to any person on behalf of any member or former member, may exceed in amount the total earned service pension of the member or former member. The total earned service pension is *shall be* calculated using the service pension amount specified in the bylaws of the relief association and the years of service credited to the member or former member. The years of service ~~are~~ *shall be* determined as of (1) the date the member or former member became entitled to the ancillary benefit; or (2) the date the member or former member died entitling a survivor or the estate of the member or former member to an ancillary benefit. The ~~survivor ancillary benefit may~~ *shall* be calculated (1) without regard to whether the member or former member had attained the minimum amount of service and membership credit specified in the governing bylaws; and (2) without regard to the percentage amounts specified in subdivision 2; except that the bylaws of any relief association may provide for the payment of a survivor benefit in an amount not to exceed five times the yearly service pension amount specified in the bylaws on behalf of any member who dies before having performed five years of active service in the fire department with which the relief association is affiliated.

Sec. 11. Minnesota Statutes 1984, section 424A.02, is amended by adding a subdivision to read:

Subd. 12. [TRANSFER OF SERVICE CREDIT TO NEW DISTRICT.] Notwithstanding the requirements of subdivision 1 or any other law, a member of a fire department which is disbanded upon formation of a fire district to serve substantially the same geographic area, who serves as an active firefighter with the new district fire department, and is a member of the district firefighters' relief association shall be entitled to a nonforfeitable service pension from the new relief association upon completion of a combined total of 20 years active service in the disbanded and the new departments. The amount of the service pension shall be based upon years of service in the new department only, and shall be in an amount equal to the accrued liability for the appropriate years of service calculated in accordance with section 69.772, subdivision 2."

Page 5, line 13, strike "currently" and delete "or"

Page 5, line 14, delete "subsequently"

Page 5, delete section 4 and insert:

"Sec. 15. Laws 1981, chapter 68, section 42, subdivision 1, is amended to read:

Sec. 42. [THIEF RIVER FALLS POLICE; SURVIVOR BENEFITS.]

Subdivision 1. [BENEFITS.] Notwithstanding Minnesota Statutes, section 423.58, when a service pensioner, disability pensioner, deferred pensioner, or an active member of the Thief River Falls police relief association dies, leaving a surviving spouse, one or more surviving children, or both, the surviving spouse and child or children shall be entitled to a pension or pensions as follows:

(1) To the surviving spouse a pension in an amount not to exceed \$250 \$300 per month payable for life; provided, however, that if the surviving spouse shall remarry, the pension shall terminate as of the date of remarriage.

(2) To the child or children, until the child reaches the age of 18 years, a monthly benefit in an amount not to exceed \$125 per month. Payments for the benefit of any qualified dependent child under the age of 18 years shall be made to the surviving parent or if none, to the legal guardian of the child. The maximum monthly benefit for any one family shall not exceed \$750. If the member shall die under circumstances which entitle his surviving spouse and dependent children to receive benefits under the workers' compensation law, the amounts so received by them shall not be deducted from the benefits payable under this section.

(3) *Pensions payable to a surviving spouse pursuant to paragraph (1) shall be adjusted annually on January 1, 1986, and January 1 of each year thereafter in proportion to salary increases paid to active patrolmen by the city during the preceding calendar year, to a maximum of three and one-half percent in any calendar year. In no event shall the pension of a surviving spouse exceed \$600 per month.*

Sec. 16. Laws 1982, chapter 574, section 3, subdivision 9, is amended to read:

Subd. 9. [PREVAILING PAY.] "Prevailing pay" means the monthly basic salary and the maximum holiday pay, multiplied by the maximum percentage of longevity. Monthly basic salary, maximum holiday pay, and the percentage of longevity are determined in accordance with the unit employment contract of the police department in effect from time to time or, in the case of police officers not covered by the unit employment contract, by other contracts in effect from time to time. No pension shall be reduced by reason of the employment of a successor at a lower prevailing pay. In the case of police officers who are required to accept a position of lower rank prior to their retirement, the pension shall be based on the prevailing pay of the higher rank.

Sec. 17. Laws 1982, chapter 574, section 5, is amended to read:

Sec. 5. [VIRGINIA POLICE; BENEFIT CHANGES FOR PARTICIPANTS.]

If the bylaws so authorize, the following changes shall be effective:

(a) The service pension payable to persons who retired from the police department on or before January 12, 1966, shall be supplemented by \$50 \$100 per month.

(b) For any participant who terminated employment after 20 or more years of service, the amount of the monthly service pension payable after the participant has attained the age of at least 50 years shall be equal to one-half of

the prevailing pay of a police officer of the rank and position held by the participant for a period of at least six months prior to termination of service, or to the rank and position most analogous thereto, payable by the police department in each month during which the retired participant receives a service pension.

(c) The amount of a monthly disability pension shall be equal to one-half of the prevailing pay of a police officer of the rank and position held by the participant for a period of at least six months prior to his or her disability or the rank and position most analogous thereto, payable by the police department in each month during the period of the participant's disability, subject to any integration of benefits.

(d) The benefit paid to the surviving spouse of a participant who died on or before January 11, 1967, shall be increased by \$25 \$50 per month, until the surviving spouse's death or remarriage.

(e) The benefit paid to a surviving child shall be increased to \$50 per child per month, subject to any limitation placed on the total amount of survivor's benefits.

Sec. 18. Laws 1984, chapter 564, section 48, is amended to read:

Sec. 48. [~~ANNUAL APPROPRIATION SUPPLEMENTARY AMORTIZATION STATE AID.~~]

There is appropriated and transferred from the general fund to the commissioner of finance, \$1,000,000 annually for distribution among those local police and salaried firefighters relief associations that receive amortization state aid according to Minnesota Statutes, section 423A.02. Distribution shall be made according to that proportion the unfunded accrued liability of each relief association bears to the total unfunded accrued liabilities of all relief associations as reported in the ~~most recent~~ *December 31, 1983*, actuarial valuations of the relief associations that receive amortization state aid according to section 423A.02. Moneys shall be distributed to the relief associations at the same time fire and police department state aid is distributed according to section 69.021.

Sec. 19. Laws 1984, chapter 574, section 18, is amended to read:

Sec. 18. [BUHL POLICE RETIREMENT BENEFITS.]

Notwithstanding the limitation contained in Minnesota Statutes, section 423.55 or any other law, the bylaws of the Buhl police relief association may be amended to provide for the payment of ~~a an annual~~ service pension equal to ~~65~~ 85 percent of the ~~monthly~~ base pay of a member ~~at for the 12-month period immediately preceding~~ the time of retirement from the police department. All other provisions of section 423.55 shall apply to the extent not inconsistent with this section.

In addition, the bylaws of the Buhl police relief association may be amended to provide for the recalculation of the service pension payable to a current retiree. The increased service pension may be equal to 85 percent of the total pay of the retired member for the 12-month period immediately preceding the time of retirement from the police department.

Sec. 20. [EVELETH POLICE AND FIREFIGHTERS; BENEFIT IN-

CREASE.]

Notwithstanding any general or special law to the contrary, in addition to other benefits payable, retirement benefits payable to retired police officers and firefighters and the surviving spouses thereof by the Eveleth police and fire trust fund may be increased by \$25 per month. Increases may be made retroactive to January 1, 1985.

Sec. 21. [NEW ULM POLICE RELIEF ASSOCIATION.]

Subdivision 1. [BENEFIT INCREASE FOR RETIREES.] The New Ulm police relief association is authorized to pay any retired member of the association a supplemental benefit of \$80 per month from the date the retired member is eligible to receive benefits from the association until the member reaches the age of 65 years. This benefit shall be available to only those members retiring after the effective date of this section.

Subd. 2. [FINANCING.] The cost of the additional benefit provided by subdivision 1 will be paid by a 0.75 percent increase in the payroll deduction of the covered payroll of members of the New Ulm police relief association. Any cost of the additional retirement benefits not covered by the increase in payroll deduction shall be reimbursed to the association by the city of New Ulm.

Sec. 22. [STEVENS COUNTY MEMORIAL HOSPITAL EMPLOYEES.]

Subdivision 1. [REFUND OF CONTRIBUTIONS.] A member of the public employees retirement association who was employed by the Stevens county memorial hospital on the date the hospital was taken over by a private corporation or organization shall be paid a refund of accumulated employee and employer contributions made by or on behalf of the employee to the association, plus interest thereon at the rate of six percent per annum. If an employee has previously received a refund of employee contributions, only the employer contributions plus the total interest shall be refunded. No employer additional contributions are to be refunded.

Subd. 2. [DEFERRED ANNUITY.] If an employee described in subdivision 1 had at least five years of allowable service credit, the employee may elect to receive, in lieu of the refund, a deferred annuity pursuant to Minnesota Statutes, section 353.34, subdivision 3, notwithstanding the length of service requirements contained therein. An employee eligible for a deferred annuity who has previously received a refund of employee contributions may reinstate his or her eligibility for a deferred annuity by repaying the amount refunded, including any interest received, to the association.

Subd. 3. [DEADLINE.] Refunds shall be paid or options exercised and repayments of refunds made prior to July 1, 1985.

Sec. 23. [CITY OF ST. PAUL MODEL CITIES HEALTH CENTER PROJECT EMPLOYEES.]

Subdivision 1. [REFUND OF CONTRIBUTIONS.] A member of the public employees retirement association who is employed by the city of St. Paul and assigned to the model cities health center project on the date the project is taken over by a private corporation or organization must, upon the employee's request, be paid a refund of accumulated employee and employer

contributions made by or on behalf of the employee to the association, plus interest at the rate of six percent per year. If an employee has previously received a refund of employee contributions, only the employer contributions plus the total interest may be refunded. No employer additional contributions are to be refunded.

Subd. 2. [DEFERRED ANNUITY.] *If an employee described in subdivision 1 had at least five years of allowable service credit, the employee may elect to receive, instead of the refund, a deferred annuity under Minnesota Statutes, section 353.34, subdivision 3, notwithstanding the length of service requirements contained in that subdivision. An employee eligible for a deferred annuity who has previously received a refund of employee contributions may reinstate his or her eligibility for a deferred annuity by repaying the amount refunded, including any interest received, to the association.*

Subd. 3. [DEADLINE.] *Refunds must be paid or options exercised and repayments of refunds made within 180 days of the date the model cities health center project is taken over by a private corporation or organization.*

Sec. 24. [OWATONNA CITY HOSPITAL.]

Refunds authorized by Laws 1984, chapter 574, section 31, may be paid prior to July 1, 1985.

Sec. 25. [TEMPORARY PROVISION; COUNTY HISTORICAL SOCIETY EMPLOYEES.]

Section 3 applies to county historical society employees first employed on or after July 1, 1985. Employees first employed prior to July 1, 1985, may elect membership effective commencing on that date by filing notice of their election with the board of trustees of the association prior to September 1, 1985. Elected coverage shall not be retroactive for service prior to July 1, 1985, and no purchase of prior service credit shall be allowed.

Sec. 26. [MOORHEAD POLICE AND FIREFIGHTERS; RETIREMENT COVERAGE FOR ACTIVE MEMBERS.]

Subdivision 1. [TRANSFER OF COVERAGE.] *Notwithstanding any other law, active police officers and firefighters or deferred recipients employed by the police and fire departments of the city of Moorhead on the effective date of sections 26 to 32 who receive their pension and retirement coverage from either the Moorhead police or firefighters relief association cease to be members of their respective association, and cease to accrue service credits, rights, or benefits from their respective relief association on August 1, 1985. On August 1, 1985, active police officers and firefighters employed by the city of Moorhead who meet the requirements of Minnesota Statutes, section 353.64, become members of the public employees police and fire fund established pursuant to Minnesota Statutes, sections 353.63 to 353.68. Their service before August 1, 1985, as police officers and firefighters with the city of Moorhead must be credited as allowable service by the public employees police and fire fund for purposes of section 353.01, subdivision 16.*

Subd. 2. [CALCULATION OF LIABILITY.] *The liability for service before August 1, 1985, to be transferred to the police and fire fund must be calculated by the actuary for the police and fire fund based on the following*

data for each active police officer and firefighter: date of birth, date of entry into service, dates of breaks in service, and salaries for each of the highest five successive years of service. The liability must be calculated as of August 1, 1985, as if each police officer and firefighter were a member of the police and fire fund from the original date of entry into service under the laws governing the police and fire fund on January 1, 1985. The actuary of the police and fire fund shall calculate this liability before the approval of sections 26 to 32 by the city of Moorhead.

The legislative commission on pensions and retirement must approve the calculations of liabilities upon the recommendation of its actuary. The actuary for the police and fire fund shall furnish documents, data, and materials requested by the commission and its actuary.

The city of Moorhead shall pay a required portion of the calculated liability to the police and fire fund. The required portion shall be an amount equal to the percentage which the assets of the police and fire fund bear to the accrued liability of the fund as determined in the June 30, 1984, valuation of the fund.

The required portion of the liability for the service of the police officers and firefighters before August 1, 1985, must be added to the liability of the police and fire fund. The city of Moorhead shall certify the records upon which the liability calculations are performed and shall amortize the amount of that added liability as provided in section 28, subdivision 2.

Sec. 27. [RETIREMENT COVERAGE FOR CURRENT RECIPIENTS OF BENEFITS.]

Current recipients of retirement benefits, disability benefits, or survivor benefits paid by either relief association shall receive future benefits from the police and fire fund with future adjustments from the Minnesota postretirement investment fund, called the postretirement fund in sections 28 to 31, pursuant to Minnesota Statutes, section 11A.18.

The relief associations shall obtain estimates of reserves for current or deferred benefit recipients from the actuary of the police and fire fund. The estimates must be of the reserves necessary to support a benefit in an amount equal to that received by each recipient in July 1985, plus future adjustments from the postretirement fund, assuming the recipient was retiring at his or her attained age as of July 31, 1985, from the police and fire fund on that date. The calculation must be made using the interest assumption of the postretirement fund and the applicable police and fire fund mortality table. For recipients with eligible spouses, the reserves must include the right of the spouse to receive a surviving spouse benefit as provided by the laws and the bylaws governing the relief association as of January 1, 1985.

The relief association shall compile a list of recipients to receive future benefit adjustments from the postretirement fund, called the postfund recipients and the corresponding required reserves for those recipients. The relief association shall provide the board of the public employees retirement association with the list so that the board can pay the August 1985 payments.

The accrued liability as of July 31, 1985, for all postfund recipients must be added to the liability of the police and fire fund and ceases to be the liability of each relief association. The police and fire fund shall transfer the required reserves for the postfund recipients to the postretirement fund by July 31,

1985.

The required reserves for the January 1, 1986, increase determined using the interest assumption of the postretirement fund and the applicable police and fire fund mortality table shall be transferred by the police and fire fund to the postretirement fund on January 1, 1986. If any assets remain in either the Moorhead police relief association or in the special fund of the Moorhead firefighters relief association after the transfer of assets for the postfund recipients, those assets must be transferred to the public employees retirement association to reduce the unfunded accrued liability resulting from transfer of the liability of the active employees. If the assets transferred for the postfund recipients are insufficient, the city shall finance the remaining unfunded accrued liability as provided in section 28, subdivision 3.

Future adjustments, pursuant to section 11A.18, must be calculated on the annuity or benefit amount payable by either relief association in July 1985. For the purposes of determining and paying the January 1, 1986, adjustment from the postretirement fund, the adjustment must be calculated as though June 30, 1984, were the effective date of retirement for each postfund recipient.

Sec. 28. [FINANCIAL REQUIREMENTS FOR CITY OF MOORHEAD.]

Subdivision 1. [RECEIPT OF STATE AID.] Amortization state aid, fire state aid, or other money received by the city for pension purposes must be allocated by the city among the financial requirements of this section.

Subd. 2. [FINANCIAL REQUIREMENTS OF POLICE AND FIRE FUND MEMBERS.] The city of Moorhead shall make the employer contribution to the police and fire fund on behalf of all active police officers and firefighters employed by the police and fire departments as required in Minnesota Statutes, section 353.65, subdivision 3.

In addition, the city shall make an additional contribution to the police and fire fund to amortize the unfunded accrued liability incurred by the police and fire fund as a result of the crediting of service before August 1, 1985. The additional contribution must be the level annual dollar amount that is required to amortize by the year 2010 the unfunded accrued liability incurred as a result of the consolidation, using an interest assumption of five percent. The additional contribution is payable at the beginning of each fiscal year, commencing July 1, 1986. Upon request of the city of Moorhead, the board may permit the city to make payments according to a different schedule.

Subd. 3. [FINANCIAL REQUIREMENTS FOR POSTFUND RECIPIENTS.] The city of Moorhead shall amortize the unfunded accrued liability incurred by the police and fire fund as a result of the transfer of reserves by the police and fire fund to the postretirement fund for the postfund recipients. That liability, if any, calculated by the police and fire fund actuary as provided in section 27, must be amortized and paid in the same manner as the unfunded liability incurred as a result of the consolidation, as provided in subdivision 2, except that the amortization period must be equal to the average life expectancy of the postfund recipients as of August 1, 1985. The actuary of the police and fire fund shall determine the period of amortization based on the mortality tables applicable to the police and fire fund.

Subd. 4. [LEVY AUTHORITY.] The city of Moorhead shall levy to provide for the financial requirements of subdivisions 2 and 3. Notwithstanding any other law, any levy required to provide the necessary financing is not included in any limitation as to rate or amount set by charter and is a special levy for purposes of Minnesota Statutes, section 275.50, subdivision 5, clause (o).

Sec. 29. [TERMINATION OF RELIEF ASSOCIATIONS.]

Subdivision 1. [TRANSFER OF ASSETS.] All assets of the special fund of the Moorhead firefighters relief association and all assets of the Moorhead police relief association must be transferred to the public employees retirement association as provided in section 27. The transfer of assets must include any accounts receivable, regardless of source. Accounts payable on August 1, 1985, must also be transferred to the public employees retirement association. The public employees retirement association is the successor in interest with respect to all claims by or against either relief association or the city of Moorhead arising from operation of the relief association, except (1) any claim against either relief association or any person connected with it in a fiduciary capacity, based on any acts by that person which were not performed in good faith and which constituted a breach of the person's obligation as a fiduciary, or (2) any judicial proceeding arising from the passage of sections 26 to 32. As a successor in interest, the public employees retirement association may assert any applicable defense in any judicial proceeding which either relief association or the city of Moorhead would otherwise have been entitled to assert.

Subd. 2. [TRANSFER OF RECORDS.] Before August 1, 1985, or as soon as possible, each relief association shall transfer to the police and fire fund original copies of all records and documents in its possession relating to the relief association and any of its members. The city of Moorhead shall provide from time to time whatever additional relevant information the board may request.

Subd. 3. [TERMINATION OF SPECIAL FUND.] Upon the transfer of the assets, liabilities, and records of the Moorhead firefighters relief association to the public employees retirement association, the Moorhead firefighters are no longer authorized to retain a special fund within their relief association, and the special fund ceases to exist as a legal entity. Firefighters employed by the Moorhead fire department may retain the name "Moorhead firefighters relief association" as the name of their general fund.

Subd. 4. [TERMINATION OF RELIEF ASSOCIATION.] Upon the transfer of the assets, liabilities, and records of the Moorhead police relief association to the public employees retirement association, the Moorhead police relief association ceases to exist as a legal entity.

Sec. 30. [REVIEW OF PORTFOLIO BY STATE BOARD OF INVESTMENT.]

Before the transfer of assets to the public employees retirement association, the state board of investment may review the existing portfolio of the relief associations and require the liquidation of any assets deemed inappropriate for transfer. All assets must be transferred at market value.

Sec. 31. [SAVING CLAUSE.]

Notwithstanding any other law, any person receiving a benefit from either relief association on or before the effective date of sections 26 to 32, who is working for a state or local unit of government on that date, and who has retirement coverage for that employment from either the Minnesota state retirement system or the public employees retirement association retains benefits accrued for that employment and is entitled to accrue future benefits for it despite the transfer of service credit for service as a Moorhead police officer or firefighter to the police and fire fund.

Sec. 32. [REPEALER OF MOORHEAD SPECIAL LAWS.]

Laws 1945, chapter 277; Laws 1951, chapter 499; Laws 1955, chapter 75; Laws 1965, chapter 190; Laws 1967, chapter 775; Laws 1969, chapter 138; Laws 1975, chapter 120; Laws 1978, chapter 563, section 8; Laws 1979, chapter 216, sections 27 to 43; Laws 1980, chapter 600, section 16; Laws 1981, chapter 224, section 236; and Laws 1982, chapter 578, article 3, section 18, are repealed.

Sec. 33. [REPEALER.]

Laws 1965, chapter 592, section 4, as added by Laws 1969, chapter 644, section 2, and amended by Laws 1975, chapter 229, section 3, is repealed.

Sec. 34. [EFFECTIVE DATE.]

Sections 2, 6 to 11, 18, 22 to 24, and 33 are effective the day following final enactment. Section 11 is retroactive to January 1, 1985. Section 1 is effective May 31, 1985. Sections 3 and 25 are effective July 1, 1985. Sections 4 and 5 are effective January 1, 1986. Sections 12 to 14 are effective on approval by the Hennepin county board. Section 15 is effective retroactive to January 1, 1985, on approval by the Thief River Falls city council. Sections 16 and 17 are effective retroactive to January 1, 1985, on approval by the Virginia city council. Section 19 is effective on approval by the Buhl city council. Section 20 is effective retroactive to January 1, 1985, on approval by the Eveleth city council. Section 27 is effective on approval by the New Ulm city council. Sections 26 to 32 are effective on approval by the Moorhead city council. All local approvals must comply with section 645.021."

Delete the title and insert:

"A bill for an act relating to retirement; public plans generally; amending Minnesota Statutes 1984, sections 69.011, subdivision 1; 69.26; 353.01, subdivision 2a; 422A.101, subdivision 3, and by adding a subdivision; 423A.02; 423A.15; 424A.02, subdivisions 6 and 9, and by adding a subdivision; and Laws 1969, chapter 950, sections 1, subdivision 1, as amended; and 4, as amended; Laws 1981, chapter 68, section 42, subdivision 1; Laws 1982, chapter 574, sections 3, subdivision 9; and 5; Laws 1983, chapter 100, section 1; and Laws 1984, chapters 564, section 48; and 574, section 18; proposing coding for new law in Minnesota Statutes, chapter 423A; repealing Laws 1945, chapter 277; Laws 1951, chapter 499; Laws 1955, chapter 75; Laws 1965, chapter 190; Laws 1965, chapter 592, section 4, as amended; Laws 1967, chapter 775; Laws 1969, chapter 138; Laws 1975, chapter 120; Laws 1978, chapter 563, section 8; Laws 1979, chapter 216, sections 27 to 43; Laws 1980, chapter 600, section 16; Laws 1981, chapter 224, section 236; and Laws 1982, chapter 578, article 3, section 18."

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

Mr. Moe, D.M. from the Committee on Governmental Operations, to which was referred

H.F. No. 440: A bill for an act relating to retirement; making various changes in laws governing public retirement funds; amending Minnesota Statutes 1984, sections 3.85, subdivisions 11 and 12; 353.657, subdivision 2a; 354.44, subdivision 6; 354A.35, subdivision 1; 356.20, subdivision 4; 356.215, subdivision 4; 356.216; and 356.70.

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

Page 3, after line 28, insert:

"Sec. 3. Minnesota Statutes 1984, section 176.021, subdivision 7, is amended to read:

Subd. 7. [PUBLIC OFFICER.] If an employee who is a public officer of the state or governmental subdivision continues to receive the compensation of his office during a period when he is receiving benefits under the workers' compensation law for temporary total or temporary partial disability or permanent total disability and the compensation of his office exceeds \$100 a year, the amount of that compensation attributable to the period for which benefits under the workers' compensation law are paid shall be deducted from such benefits. *If an employee covered by the Minnesota state retirement system receives total and permanent disability benefits pursuant to section 352.113 or disability benefits pursuant to sections 352.95 and 352B.10, the amount of disability benefits shall be deducted from workers' compensation benefits otherwise payable. Notwithstanding the provisions of section 176.132, a deduction under this subdivision does not entitle an employee to supplemental benefits under section 176.132.*

Sec. 4. Minnesota Statutes 1984, section 352.01, subdivision 11, is amended to read:

Subd. 11. [ALLOWABLE SERVICE.] "Allowable service" means:

(1) Any service rendered by an employee for which on or before July 1, 1957, he was entitled to allowable service credit on the records of the system by reason of employee contributions in the form of salary deductions, payments in lieu of salary deductions, or in any other manner authorized by Minnesota Statutes 1953, chapter 352, as amended by Laws 1955, chapter 239, ~~or~~;

(2) Any service rendered by an employee for which on or before July 1, 1961, he elected to obtain credit for service by making payments to the fund pursuant to Minnesota Statutes 1961, section 352.24, ~~or~~;

(3) Except as provided in ~~clause (9)~~ *clauses (9) and (10)*, any service rendered by an employee after July 1, 1957, for any calendar month in which he is paid salary from which deductions are made, deposited and credited in the fund, including deductions made, deposited and credited as provided in section 352.041, ~~or~~;

(4) Except as provided in ~~elause (9) clauses (9) and (10)~~, any service rendered by an employee after July 1, 1957 for any calendar month for which payments in lieu of salary deductions are made, deposited and credited in the fund, as provided in section 352.27 and Minnesota Statutes 1957, section 352.021, subdivision 4.

For purposes of ~~paragraphs clauses (3) and (4) of this subdivision~~, except as provided in ~~elause (9) clauses (9) and (10)~~, any salary paid for a fractional part of any calendar month is deemed the compensation for the entire calendar month; ~~or~~;

(5) The period of absence from their duties by employees who by reason of injuries incurred in the performance thereof are temporarily disabled and for which disability the state is liable under the workers' compensation law until the date authorized by the director for the commencement of payments of a total and permanent disability benefit from the retirement fund; ~~or~~;

(6) The unused portion of an employee's annual leave allowance for which he is paid salary; ~~or~~;

(7) Any service covered by a refund repaid as provided in sections 352.23 or 352D.05, subdivision 4, but does not include service rendered as an employee of the adjutant general for which the person has credit with the federal civil service retirement system; ~~or~~;

(8) Any service prior to July 1, 1978 by an employee of the transit operating division of the metropolitan transit commission or by an employee on an authorized leave of absence from the transit operating division of the metropolitan transit commission who is employed by the labor organization which is the exclusive bargaining agent representing employees of the transit operating division which was credited by the metropolitan transit commission-transit operating division employees retirement fund or any of its predecessor plans or funds as past, intermediate, future, continuous or allowable service as defined in the metropolitan transit commission-transit operating division employees retirement fund plan document in effect on December 31, 1977; ~~or~~;

(9) Any service rendered after July 1, 1983, by an employee who is employed on a part-time basis for less than ~~80~~ 50 percent of full time, for which the employee is paid salary from which deductions are made, deposited and credited in the fund, including deductions made, deposited and credited as provided in section 352.041 or for which payments in lieu of salary deductions are made, deposited and credited in the fund as provided in section 352.27 shall be credited on a fractional basis either by pay period, monthly, or annually based upon the relationship that the percentage of salary earned bears to a full-time salary, with any salary paid for the fractional service credited on the basis of the rate of salary applicable for a full-time pay period, month, or a full-time year; ~~or~~. For periods of part-time service which is duplicated service credit, the provisions of section 356.30, subdivision 1, clauses (i) and (j), shall govern;

(10) Any service by an employee in the Minnesota demonstration job-sharing program pursuant to sections 43.56 to 43.62 which is less than 40 hours per week or 2,080 hours per year and for which the employee is paid salary from which deductions are made, deposited and credited in the fund,

shall be credited on a fractional basis either weekly or annually based upon the relationship that the number of hours of service bears to either 40 hours per week or 2,080 hours per year, with any salary paid for the fractional service credited on the basis of the rate of salary applicable for a full-time week or a full-time year.

The allowable service determined and credited on a fractional basis pursuant to clauses (9) and (10) shall be used in calculating the amount of benefits payable, but shall not be used in determining the length of service required for eligibility for benefits;

(11) Any period of authorized leave of absence without pay which does not exceed one year and for which the employee obtained credit by payment to the fund made in lieu of salary deductions. To obtain credit, the employee shall pay an amount equal to the employee and employer contribution rate provided in section 352.04, subdivisions 2 and 3, multiplied by the employee's hourly rate of salary on the date of return from leave of absence and by the days and months of the leave of absence without pay for which the employee desires to obtain allowable service credit. The employing department, at its option, may pay the employer amount on behalf of its employees. Payments made under this clause shall include interest at the rate of six percent per annum from the date of termination of the leave of absence to the date payment is made unless payment is completed within one year of the return from leave of absence.

Sec. 5. Minnesota Statutes 1984, section 352.029, is amended to read:

352.029 [COVERAGE FOR EMPLOYEES OF LABOR ORGANIZATIONS.]

Subdivision 1. [QUALIFICATIONS.] A former state employee who is an employee of a labor organization which is an exclusive bargaining agent representing state employees or a state employee on leave of absence without pay to provide service as an employee or officer of a labor organization that is an exclusive bargaining agent representing state employees, may elect pursuant to subdivision 2 to be covered by the state retirement system established by this chapter with respect to service with the labor organization unless specifically excluded under section 352.01, subdivision 2B.

Subd. 2. [ELECTION.] A person described in subdivision 1 shall be covered by the state retirement system if written election to be covered is delivered to the executive director before ~~July 1, 1977 or~~ December 31, 1985, within ~~30~~ 90 days of being employed by the labor organization, or within 90 days of commencing their first leave of absence with an exclusive bargaining agent, whichever is later.

Subd. 3. [CONTRIBUTIONS.] The employee, employer and additional employer contributions required pursuant to section 352.04 shall be the obligation of the employee who elects coverage under this section; provided, however, that the employing labor organization may pay the employer and employer additional contributions. Contributions made by the employee shall be made by salary deduction. The employing labor organization shall remit all contributions to the state retirement system pursuant to section 352.04.

Subd. 4. [PURCHASE OF PRIOR SERVICE CREDIT.] Any ~~former~~ state

~~employee~~ *person* who elects membership pursuant to this section shall be allowed to make payment for service rendered prior to ~~July 1, 1977~~ *December 31, 1985*, in a labor organization designated in subdivision 1; provided that the labor organization makes satisfactory certification of the prior service of the former state employee. Payment shall include all employee, employer and additional employer contributions at the rates in effect when the service was rendered plus interest at the rate of six percent per annum from the year of purchase to the date payment is made; provided, however, that the employing labor organization may pay the employer and employer additional contributions plus interest at the specified rate. Payment shall be made in one lump sum prior to ~~July 1, 1982~~ *December 31, 1985* or prior to retirement, whichever is earlier, and no allowable service with respect to such payment shall be credited to the employee's account until payment is received by the executive director.

Subd. 5. [BOARD MEMBERSHIP EXCLUDED.] ~~Persons~~ *Employees of a labor organization* who become members of the state retirement system pursuant to this section shall not be eligible for election to the board of trustees.

Sec. 6. Minnesota Statutes 1984, section 352.22, subdivision 3, is amended to read:

Subd. 3. [DEFERRED ANNUITY.] (1) Any employee with at least ten years of allowable service when such termination occurs may at his option leave his accumulated contributions in the fund and thereby be entitled to a deferred retirement annuity. This annuity shall be computed in the manner provided by the law in effect at the time state service terminated, on the basis of allowable service prior to termination of service.

(2) An employee on layoff or on leave of absence without pay, except a leave of absence for health reasons, who does not return to state service shall have any annuity, deferred annuity or other benefit to which he may become entitled computed under the law in effect on his last working day.

(3) No application for a deferred annuity shall be made more than 60 days prior to the time the former employee reaches the required age to entitle him to the payment of the annuity. The deferred annuity shall begin to accrue no earlier than 60 days prior to the date the application is filed in the office of the system except that if an optional annuity as provided in section 352.116 is selected the annuity shall begin to accrue 30 days after the application is filed, but in no event prior to the date the employee reaches the required age to entitle him to the annuity nor prior to the day following the termination of state service in a position not covered by the retirement system nor prior to the day following the termination of employment in a position which requires the employee to be a member of either the public employees retirement association or the teachers retirement association.

(4) Application for the accumulated contributions left on deposit with the fund may be made at any time after 30 days following the date of termination of service.

Sec. 7. Minnesota Statutes 1984, section 352.95, subdivision 1, is amended to read:

Subdivision 1. Any covered correctional employee less than 55 years of

age who shall become disabled and physically unfit to perform the duties of the position as a direct result of an injury, sickness, or other disability incurred in or arising out of any act of duty which shall render the employee physically or mentally unable to perform the duties, shall be entitled to a disability benefit based on covered correctional service only, in an amount equal to 50 percent of the average salary defined in section 352.93, plus an additional ~~two~~ 2-1/2 percent for each year of covered correctional service in excess of 20 years *but not in excess of 25 years, and two percent for each year of covered correctional service in excess of 25 years*, pro-rated for completed months, to a maximum monthly benefit of 75 percent of the average monthly salary.

Sec. 8. Minnesota Statutes 1984, section 352B.10, is amended to read:

352B.10 [DISABILITY BENEFITS.]

(1) Any member less than 55 years of age, who shall become disabled and physically unfit to perform his duties as a direct result of an injury, sickness, or other disability incurred in or arising out of any act of duty, which shall render the member physically or mentally unable to perform his or her duties, shall receive disability benefits during the period of such disability. The benefits shall be paid in monthly installments equal to that portion of the average monthly salary of the member multiplied (a) by 50 percent and, (b) by an additional ~~two~~ 2-1/2 percent for each year and pro rata for completed months of service in excess of 20 years, *but not exceeding 25 years and two percent for each year and pro rata for completed months of service in excess of 25 years.*

(2) ~~If a member is injured under circumstances which entitle him to receive benefits under the workers' compensation law, he shall receive the same benefits as provided in clause (1), less the amount paid to him in weekly benefits under the workers' compensation law.~~

(3) Any member who after not less than five years of service, before reaching the age of 55, terminates employment because of sickness or injury occurring while not on duty and not engaged in state work entitling the member to membership and the termination is necessary because the member is unable to perform his or her duties shall be entitled to receive a disability benefit. The benefit shall be in the same amount and computed in the same manner as if the member were 55 years of age at the date of disability and the annuity were paid pursuant to section 352B.08. Should disability under this clause occur after five but in less than ten years service, the disability benefit shall be computed as though the member had ten years service.

(4) (3) No member shall receive any disability benefit payment when the member has unused annual leave or sick leave or under any other circumstances, when during the period of disability there has been no impairment of salary. Should such member or former member resume a gainful occupation and his or her earnings are less than the salary received at the date of disability or the salary currently paid for similar positions, the disability benefit shall be continued in an amount which when added to earnings does not exceed the salary received at the date of disability or the salary currently paid for similar positions, whichever is higher, provided the disability benefit in such case does not exceed the disability benefit originally allowed.

(5) (4) No disability benefit payment shall be made except upon adequate

proof furnished to the director of the existence of such disability, and during the time when any such benefits are being paid, the director shall have the right, at reasonable times, to require the disabled former member to submit proof of the continuance of the disability claimed.

(6) (5) A disabled member not eligible for survivorship coverage pursuant to section 352B.11, subdivision 2, may elect the normal disability benefit or an optional annuity as provided in section 352B.08, subdivision 2. The election of an optional annuity shall be made prior to commencement of payment of the disability benefit and shall be effective 30 days after receipt of this election or the date on which the disability benefit begins to accrue, whichever occurs later. Upon becoming effective, the optional annuity shall begin to accrue on the same date as provided for the disability benefit.

Sec. 9. Minnesota Statutes 1984, section 352D.01, is amended to read:

352D.01 [ESTABLISHMENT.]

There is hereby established within the Minnesota state retirement system a retirement program for certain ~~unclassified public employees in state service~~ to be known as the Minnesota ~~unclassified employees retirement program~~ *savings plan*, which shall be administered by the Minnesota state retirement system.

Sec. 10. Minnesota Statutes 1984, section 352D.015, subdivision 2, is amended to read:

Subd. 2. "~~Unclassified program Plan~~" means the ~~program Minnesota retirement savings plan~~ established by this chapter.

Sec. 11. Minnesota Statutes 1984, section 352D.015, subdivision 4, is amended to read:

Subd. 4. "Regular fund" or "*regular plan*" means the state employees retirement fund *or the public employees retirement association, where applicable*, except the moneys for the ~~unclassified program Minnesota retirement savings plan~~.

Sec. 12. Minnesota Statutes 1984, section 352D.015, subdivision 5, is amended to read:

Subd. 5. "Covered employment" means employment covered by ~~chapter 352, or this chapter~~.

Sec. 13. Minnesota Statutes 1984, section 352D.02, is amended to read:

352D.02 [COVERAGE.]

Subdivision 1. [COVERAGE.] *All employees with coverage under chapter 352D on the day before the effective date of this act shall have their retirement coverage continue in the Minnesota retirement savings plan. The following employees, if they are in the unclassified service of the state and are eligible for coverage under the Minnesota state employees retirement system, shall participate in the unclassified program unless an employee gives notice to the executive director of the state retirement system within one year following the commencement of employment in the unclassified service that the employee desires coverage under the regular employee plan. For the purposes of this chapter, an employee who does not file notice with the executive*

~~director fund shall be deemed to have exercised the option to participate in the unclassified plan.~~

(1) Any employee in the office of the governor, lieutenant governor, secretary of state, state auditor, state treasurer, attorney general or the state board of investment,

(2) The head of any department, division, or agency created by statute in the unclassified service, an acting department head subsequently appointed to the position, or any employee enumerated in sections 15A.081, subdivision 1 or 15A.083, subdivision 4,

(3) Any permanent, full-time unclassified employee of the legislature or any commission or agency of the legislature or a temporary legislative employee having shares in the supplemental retirement fund as a result of former employment covered by this chapter, whether or not eligible for coverage under the Minnesota state retirement system,

(4) Any person employed in a position established pursuant to section 43A.08, subdivision 1, clause (c), or subdivision 1a or in a position authorized under a statute creating or establishing a department or agency of the state, which is at the deputy or assistant head of department or agency or director level *whether in the classified or unclassified service of the state*,

(5) The ~~chairman~~ *chair*, chief administrator, and not to exceed nine positions at the division director or administrative deputy level of the metropolitan waste control commission as designated by the commission, and the ~~chairman~~ *chair*, executive director, and not to exceed nine positions at the division director or administrative deputy level of the metropolitan council as designated by the council; provided that upon initial designation of all positions provided for in this clause, no further designations or redesignations shall be made without approval of the board of directors of the Minnesota state retirement system,

(6) The executive director, associate executive director, and not to exceed nine positions of the higher education coordinating board in the unclassified service, as designated by the higher education coordinating board; provided that upon initial designation of all positions provided for in this clause, no further designations or redesignations shall be made without approval of the board of directors of the Minnesota state retirement system,

(7) ~~The clerk of the appellate courts appointed pursuant to Article VI, Section 2, of the Constitution of the state of Minnesota,~~

(8) The chief executive officers of correctional facilities operated by the department of corrections and of hospitals and nursing homes operated by the department of human services,

(9) Any employee whose principal employment is at the state ceremonial house,

~~(10)~~ (9) Employees of the Minnesota educational computing corporation, and

~~(11)~~ (10) Any employee of the world trade center board.

Subd. 1a. *The following employees if they are eligible for coverage under the state employees retirement fund or the public employees retirement fund*

shall participate in the plan, subject to the provisions of subdivisions 3 and 5 and section 44:

(1) employees of the supreme court, court of appeals, district administrators, and employees of the office of the district administrators in the fifth and eighth judicial districts,

(2) employees of the metropolitan council, metropolitan parks and open space commission, regional transit board, metropolitan transit commission except employees of the transit operating division, metropolitan sports facilities commission or the metropolitan mosquito control commission,

(3) elected officers of cities, counties, and townships who receive a monthly salary of at least \$325 or an annual salary of at least \$3,900,

(4) elected county attorneys and their elected or appointed deputy county attorneys,

(5) employees of the league of Minnesota cities,

(6) employees of the association of Minnesota counties,

(7) employees of the metropolitan intercounty association, and

(8) employees of the Minnesota municipal utilities association.

Subd. 1b. Any person who on the day before June 30, 1982 is a participant in the state unclassified employees retirement program, whose position is placed in the classified service pursuant to Laws 1982, Chapter 560, may elect to maintain membership in the unclassified program as long as the person holds the position or a position in a higher class in the same agency. When an unclassified position which entitles a person to participate in the unclassified retirement program is placed in the classified service, the commissioner of employee relations shall send written notice to the incumbent of the position, and to the director of the Minnesota state retirement system. This notice shall state the incumbent's option under this subdivision. A person eligible to maintain membership in the unclassified plan shall notify the executive director of the state retirement system of the person's election to maintain membership in the unclassified plan within 60 days of the date on which the commissioner sends the notice stating that the position has been placed in the classified service. A person who does not file this notice shall be deemed to have waived the right to remain in the unclassified plan.

Subd. 1c. An employee covered by the regular plan who is subsequently employed as a permanent, full-time unclassified employee of the legislature or any commission or agency of the legislature may elect to transfer accumulated employee and matching employer contributions, as provided in section 352D.03.

Subd. 2. A person becoming a participant in the ~~unclassified program plan~~ by virtue of employment in a position specified in subdivision 1, clause (2) ~~and remaining in the unclassified service~~ shall remain a participant in the program even though the position the person occupies is deleted from any of the sections referenced in subdivision 1, clause (2) by subsequent amendment, ~~except that a person shall not be eligible to elect the unclassified program after separation from unclassified service if on the return of the person to service, that position is not specified in subdivision 1, clause (2).~~ Any person

employed in a position specified in subdivision 1 shall ~~cease be entitled to~~ continue to participate in the ~~unclassified program plan~~ in the event his the position is placed in the classified service.

Subd. 3. An election to not participate is irrevocable during any period of covered employment. An employee with employee shares to his credit in the unclassified program, after acquiring credit for ten years of allowable service but prior to termination of covered employment, may, notwithstanding other provisions of this subdivision, elect to terminate his participation in the unclassified plan and be covered by the regular plan by filing such election with the executive director. The executive director shall thereupon redeem the employee's total shares and shall credit to the employee's account in the regular plan the amount of contributions that would have been so credited had the employee been covered by the regular plan during his entire covered employment. The balance of moneys so redeemed and not credited to the employee's account shall be transferred to the state contribution reserve of the state employees retirement fund, except that the employee contribution paid to the unclassified plan in excess of that required by the general employee plan shall be refunded to the employee as provided in section 352.22. After the effective date of this act an employee who becomes employed in a position enumerated in subdivision 1 or 1a within 30 days after leaving employment in a position with retirement coverage in a covered fund enumerated in section 356.32, subdivision 2, shall have the option to participate in the plan or to remain in the covered fund. The employee must notify the executive director of the state retirement system within 30 days after assuming the new position of the employee's election to maintain membership in the covered fund. An election not to participate in the retirement savings plan is irrevocable during any period of covered employment.

Subd. 4. When any person elects participation in the ~~unclassified program plan~~ all contributions from the time first eligible to make such an election shall be covered by the program.

Subd. 5. Any employee or official who is currently employed in a position enumerated in subdivision 1 or who is hired after final enactment of this act in a position enumerated in subdivision 1 or 1a and who has prior service credit in a covered fund enumerated in section 356.32, subdivision 2, may elect to transfer accumulated employee and equal employer contributions, as provided in section 352D.03. The election to transfer contributions must be made within 180 days of the date of final enactment of this act, or within 90 days after employment begins.

Sec. 14. Minnesota Statutes 1984, section 352D.05, subdivision 4, is amended to read:

Subd. 4. The right to repay refunds provided by this subdivision is applicable only to participants with credit in the plan prior to the effective date of this act.

A participant in the ~~unclassified program plan~~ may repay regular refunds taken pursuant to section 352.22, as provided in section 352.23. A participant in the ~~unclassified program plan~~ or an employee covered by the general regular plan who has withdrawn the value of the total shares may repay the refund taken and thereupon restore the service credit, rights and benefits forfeited by paying ~~into~~ to the ~~fund~~ Minnesota state retirement system the

greater of (1) the amount refunded plus interest at 6-1/2 percent per annum compounded annually from the date that the refund was taken until the date that the refund is repaid, or (2) an amount equal to the total of the employee and employer matching and additional contributions for the forfeited employment period less the administrative fee provided in section 352D.09, subdivision 7, plus interest at the rate of 6-1/2 percent per annum compounded annually from the date of the start of the forfeited employment period until the date that the refund is paid. If the participant had withdrawn only the employee shares as permitted under prior laws, repayment shall be pro rata. Payment shall be made in a lump sum.

Sec. 15. Minnesota Statutes 1984, section 352D.06, subdivision 1, is amended to read:

Subdivision 1. When a participant attains at least age ~~58~~ 55, is retired from covered service, and applies for a retirement annuity, the cash value of his shares shall be transferred to the Minnesota post-retirement investment fund and used to provide an annuity for the retired employee based upon his age when the benefit begins to accrue according to the reserve basis used by the regular fund of the *Minnesota state retirement system* in determining pensions and reserves.

Sec. 16. Minnesota Statutes 1984, section 352D.065, subdivision 5, is amended to read:

Subd. 5. ~~An unclassified employee~~ A participant who returns to covered service after receiving benefits under this section shall not be required or allowed to repay such benefits.

Sec. 17. Minnesota Statutes 1984, section 352D.085, subdivision 1, is amended to read:

Subdivision 1. Service under the ~~unclassified program plan~~ for which the employee has employee shares to his credit, may be used for the limited purpose of qualifying for benefits under sections 352.115, 352.72, subdivision 1, and 352.113, 353.29, 353.30, 353.33, and 353.71, subdivision 1; provided such service may not be used to qualify for a disability benefit under section 352.113 or 353.33 if a participant was under the ~~unclassified program plan~~ at the time of the disability, and provided further that the years of service and salary paid while ~~such the~~ participant was in the ~~unclassified program plan~~ shall not be used in determining the amount of benefits.

Sec. 18. Minnesota Statutes 1984, section 352D.09, subdivision 1, is amended to read:

Subdivision 1. The ~~unclassified employees retirement~~ plan and the provisions of this chapter shall be administered by the Minnesota state retirement system. The provisions of chapter 352 shall govern in all instances where not inconsistent with the provisions of this chapter.

Sec. 19. Minnesota Statutes 1984, section 352D.09, subdivision 7, is amended to read:

Subd. 7. One-tenth of one percent of salary shall be deducted from the employee contributions and one-tenth of one percent of salary from the employer contributions authorized by section 352D.04, subdivision 2, to pay the administrative expenses of the ~~unclassified program plan~~.

Sec. 20. Minnesota Statutes 1984, section 352D.11, subdivision 1, is amended to read:

Subdivision 1. [ELIGIBILITY.] A qualified legislative employee may purchase prior service credit from the Minnesota state retirement system for service for which the employee did not receive service credit from the state retirement system. An employee is qualified to purchase prior service credit only if:

(1) the employee is a permanent employee of the senate, the house of representatives, or of a joint legislative agency or legislative commission, or a former permanent employee of the senate, the house of representatives, or of a joint legislative agency or legislative commission who has not withdrawn the value of shares in the ~~unclassified program plan~~; and

(2) before permanent employment the employee served as a temporary, intermittent, or contract employee of the senate, the house of representatives, a joint legislative staff agency, or a legislative commission.

Sec. 21. Minnesota Statutes 1984, section 352D.11, subdivision 4, is amended to read:

Subd. 4. [EMPLOYER CONTRIBUTIONS.] Employee payments to the state retirement system authorized by this section shall be matched by the current employer of the qualified employee from the appropriation made to the respective legislative expense funds or the appropriation available to the agency or commission. If the qualified employee is a participant in the ~~unclassified program plan~~ at the time of payment, payments by the employee and employer shall be used to purchase shares in the Minnesota supplemental retirement fund.

Sec. 22. Minnesota Statutes 1984, section 352E.01, subdivision 2, is amended to read:

Subd. 2. [PEACE OFFICER.] "Peace officer" means:

(a) A police officer employed by the state of Minnesota or any governmental subdivision within the state to enforce the criminal laws;

(b) A Minnesota state patrol officer;

(c) A sheriff or fulltime deputy sheriff with power of arrest by warrant;

(d) A state conservation officer as defined in section 84.028, subdivision 3;

(e) A person employed by the bureau of criminal apprehension as a police officer with power of arrest by warrant;

(f) A correction officer employed at any correctional institution and charged with maintaining the safety, security, discipline and custody of inmates at such institutions;

(g) A firefighter employed on a fulltime basis by a fire department of any governmental subdivision of the state who is engaged in the hazards of fire fighting or a regularly enrolled member of a volunteer fire department or member of an independent nonprofit firefighting corporation who is engaged in the hazards of fire fighting;

(h) A good samaritan who complies with the request or direction of a peace

officer to assist the officer; and

(i) A reserve police officer or a reserve deputy sheriff acting under the supervision and authority of a political subdivision.

Sec. 23. Minnesota Statutes 1984, section 352E.04, is amended to read:

352E.04 [DISBURSEMENTS.]

Upon certification to the governor by the administrator of the fund that a peace officer employed by a state or governmental subdivision within this state has been killed in the line of duty, leaving a spouse or one or more eligible dependents, the commissioner of finance shall, subject to the approval of the workers' compensation court of appeals, pay \$100,000 as follows:

(a) If there is no dependent child, to the spouse;

(b) If there is no spouse, to the dependent child or children in equal shares;

(c) If there are both a spouse and one or more dependent children, one-half to the spouse and one-half to the child or children, in equal shares;

(d) If there is no surviving spouse or dependent child or children, to the parent or parents dependent for support on the decedent, in equal shares;

(e) If there is no surviving spouse or dependent child, children or parent, then there shall be no payment made from the peace officers benefit fund.

"Killed in the line of duty" does not include deaths from natural causes or deaths that occur during employment for a private employer *other than an independent nonprofit firefighting corporation*.

Sec. 24. Minnesota Statutes 1984, section 353.01, subdivision 2a, is amended to read:

Subd. 2a. [INCLUDED EMPLOYEES.] The following persons are included in the meaning of "public employee":

(a) Elected or appointed officers and employees of elected officers *who occupied an elected or appointed office prior to the effective date of this act*.

(b) District court reporters.

(c) Officers and employees of the public employees retirement association.

(d) Employees of the League of Minnesota Cities *employed prior to the effective date of this act*.

(e) Officers and employees of public hospitals, owned or operated by or an integral part of, any governmental subdivision or governmental subdivisions.

(f) Employees of a school district who receive separate salaries for driving their own buses.

(g) Employees of the Association of Minnesota Counties *employed prior to the effective date of this act*.

(h) Employees of the Metropolitan Inter-County Association *employed prior to the effective date of this act*.

(i) Employees of the Minnesota Municipal Utilities Association *employed*

prior to the effective date of this act.

(j) Employees of the metropolitan airports commission if ~~employment initially commences~~ *employed* on or after July 1, 1979.

(k) Employees of the Minneapolis employees retirement fund, if ~~employment initially commences~~ *employed* on or after July 1, 1979.

(l) Employees of the Range Association of Municipalities and Schools.

(m) Employees of the soil and water conservation districts.

Sec. 25. Minnesota Statutes 1984, section 353.27, subdivision 12, is amended to read:

Subd. 12. [OMITTED SALARY DEDUCTIONS; OBLIGATIONS.] In the case of omission of required deductions from salary of an employee, past due for a period of 60 days or less, the head of the department shall deduct from the employee's next salary payment and forthwith remit to the executive director the amount of the employee contribution delinquency, with cumulative interest thereon at the rate of six percent per annum, compounded annually, from the date or dates each delinquent employee contribution was first payable, such interest to be paid by the employer. To the extent that any such omitted required deductions are not paid by the employee, they shall constitute a liability of the governmental subdivision which failed to make said required deductions, with interest thereon as hereinbefore specified. After July 1, 1973, any such omitted required deductions, past due for a period in excess of 60 days, shall become the sole obligation of the governmental subdivision from the time such deductions were first payable, together with interest thereon as hereinbefore specified. Any amount so due, together with employer and additional employer contributions at the rates and in the amounts specified in subdivisions 3 and 3a, with interest thereon at the rate of six percent compounded annually from the date they were first payable, shall be paid from the proceeds of a tax levy made pursuant to section 353.28, or from other funds available to the employer. Unless otherwise indicated, this subdivision shall have both retroactive and prospective application, and the governmental subdivision is liable retroactively and prospectively for all amounts due hereunder. No action for the recovery of delinquent employee and employer contributions or interest thereon shall be commenced ~~and no payment of delinquent contributions shall be made or accepted~~ after the expiration of three calendar years next following the calendar year in which the contributions were omitted.

Sec. 26. Minnesota Statutes 1984, section 353.656, subdivision 1, is amended to read:

Subdivision 1. [IN LINE OF DUTY; COMPUTATION OF BENEFITS.] Any member of the police and fire fund less than 55 years of age, who shall become disabled and physically unfit to perform his duties as a police officer or fire fighter subsequent to June 30, 1973, as a direct result of an injury, sickness, or other disability incurred in or arising out of any act of duty, which shall render him physically or mentally unable to perform his duties as a police officer or fire fighter, shall receive disability benefits during the period of such disability. The benefits shall be in an amount equal to 50 percent of the "average salary" pursuant to subdivision 3 plus an additional ~~two~~ 2-1/2 percent of said "average" salary for each year of service in excess

of 20 years but not exceeding 25 years and two percent for each year thereafter. Should disability under this subdivision occur before the member has at least five years of allowable service credit in the police and fire fund, the disability benefit shall be computed on the "average salary" from which deductions were made for contribution to the police and fire fund."

Page 4, after line 18, insert:

"Sec. 28. Minnesota Statutes 1984, section 354.44, subdivision 5, is amended to read:

Subd. 5. [RESUMPTION OF TEACHING.] Any person who retired under any provision of any retirement law applicable to schools and institutions covered by the provisions of this chapter and has thereafter resumed teaching in any school or institution to which this chapter applies shall continue to receive payments in accordance with the annuity except that during any year in which the person's income from the teaching service is in an amount equal to or greater than the annual maximum earnings allowable for that age for the continued receipt of full benefit amounts monthly under the federal old age, survivors and disability insurance program as set by the secretary of health and human services pursuant to the provisions of 42 U.S.C., Section 403. *For the purpose of this subdivision, income from teaching service shall include all income from services performed as a consultant or an independent contractor for an employer unit covered by the provisions of this chapter.*

In the event that the person has not yet reached the minimum age for the receipt of social security benefits, the maximum earnings for the person shall be equal to the annual maximum earnings allowable for the minimum age for the receipt of social security benefits. The amount in excess of the applicable re-employment income maximum specified in this subdivision shall be deducted from the annuity payable for the year immediately following the year in which the excess amount was earned. After a person has reached the age of 70, the person shall receive the annuity in full regardless of the amount of income."

Page 5, after line 21, insert:

"Sec. 30. Minnesota Statutes 1984, section 354.48, subdivision 3, is amended to read:

Subd. 3. [COMPUTATION OF BENEFITS.] (1) The amount of the disability benefit granted to members covered under section 354.44, subdivision 2, ~~elause clauses~~ (1) and (2) ~~or elause~~ (3), is an amount equal to double the annuity which could be purchased by the member's accumulated deductions plus interest thereon computed as though the teacher were age 65 at the time the benefit begins to accrue and in accordance with the law in effect when the disability application is received. Any member who applies for a disability benefit after June 30, 1974 and who failed to make an election pursuant to Minnesota Statutes 1971, Section 354.145, shall have his disability benefit computed under the provisions of this clause or clause (2) of this subdivision, whichever is larger.

The benefit granted shall be determined by the following:

- (a) The amount of the accumulated deductions;
- (b) Interest actually earned on these accumulated deductions to the date the

benefit begins to accrue;

(c) Interest for the years from the date the benefit begins to accrue to the date such member attains age 65 at the rate ~~which is the average rate credited for the five years prior to the date the benefit begins to accrue~~ of three percent;

(d) Annuity purchase rates based on an appropriate annuity table of mortality with interest ~~assumption as provided in section 354.07, subdivision 1~~ of five percent.

In addition a supplementary monthly benefit shall be paid to basic members only in accordance with the following table:

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

(2) The disability benefit granted to members covered under section 354.44, subdivisions 6 or 7 shall be computed in the same manner as the annuity provided in subdivisions 6 or 7 of that section, whichever is applicable. The disability benefit shall be the formula annuity without the reduction for each month the member is under age 65 at the time the benefit begins to accrue.

(3) ~~The optional annuity benefit provided in section 354.45 does not apply to this section.~~

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

Sec. 31. Minnesota Statutes 1984, section 354.48, subdivision 6, is amended to read:

Subd. 6. [REGULAR PHYSICAL EXAMINATIONS.] At least once each year during the first five years following the allowance of a disability benefit to any member, and at least once in every three-year period thereafter, the board shall require the disability beneficiary to undergo a medical examination to be made at the place of residence of such person, or at any other place mutually agreed upon, by a physician or physicians engaged by the board. If any examination indicates that he is no longer permanently and totally disabled or that he is engaged or is able to engage in a *substantial* gainful occupation, payments of the disability benefit by the fund shall be discontinued.

The payments shall discontinue as soon as he is reinstated to the payroll following sick leave, but in no case shall payment be made for more than 60 days after physicians engaged by the board find that such person is no longer permanently and totally disabled.

Sec. 32. Minnesota Statutes 1984, section 354.48, subdivision 7, is amended to read:

Subd. 7. [PARTIAL RE-EMPLOYMENT.] Should the disabled person resume a gainful occupation and his earnings are less than his salary at the date of disability or the salary currently paid for similar positions, the board shall continue the disability benefit in an amount which when added to such earnings does not exceed his salary at the date of disability or the salary currently paid for similar positions, whichever is lower, provided the disability benefit in such case does not exceed the disability benefit originally allowed. *The provisions of this subdivision shall not prohibit the board from making a determination that a member is no longer totally and permanently disabled or that the member is engaged or is able to engage in a substantial gainful occupation based on the results of the regular physical examinations required by subdivision 6.*

Sec. 33. Minnesota Statutes 1984, section 354.49, subdivision 2, is amended to read:

Subd. 2. Except as provided in section 354.44, subdivision 1, any person who ceases to be a member by reason of termination of teaching service, shall receive a refundment in an amount equal to ~~his~~ *the* accumulated deductions credited to the account as of June 30, 1957, and after July 1, 1957, the accumulated deductions with interest at the rate of five percent per annum compounded annually plus any variable annuity account accumulations payable pursuant to section 354.62, subdivision 5, clause (4). *For the purpose of this subdivision, interest shall be computed on fiscal year end balances to the first day of the month in which the refund is issued.*

Sec. 34. Minnesota Statutes 1984, section 354.55, subdivision 11, is amended to read:

Subd. 11. Any person covered under section 354.44, subdivisions 6 and 7, who ceases to render teaching service may leave the person's accumulated deductions in the fund for the purpose of receiving a deferred annuity at retirement. Eligibility for an annuity under this subdivision shall be governed pursuant to sections 354.44, subdivision 1, or 354.60.

The amount of the deferred retirement annuity shall be determined by section 354.44, subdivisions 6 and 7, and augmented as provided herein. The required reserves related to that portion of the annuity which had accrued at the time the member ceased to render teaching service shall be augmented by interest compounded annually from the first day of the month following the month during which the member ceased to render teaching service to the effective date of retirement. There shall be no augmentation if this period is less than three months *or if this period commences prior to July 1, 1971.* The rates of interest used for this purpose shall be five percent commencing July 1, 1971, until January 1, 1981, and three percent thereafter. If a person has more than one period of uninterrupted service, the required reserves related to each period shall be augmented by interest pursuant to this subdivision.

The sum of the augmented required reserves so determined shall be the basis for purchasing the deferred annuity. If a person does not render teaching service in any one or more consecutive fiscal years and then resumes teaching service, the formula percentages used from date of resumption will be those applicable to new members. The mortality table and interest assumption contained therein used to compute the annuity shall be determined by the law in effect at the time of the member's retirement. A period of uninterrupted service for the purposes of this subdivision shall mean a period of covered teaching service during which the member has not been separated from active service for more than one fiscal year.

The provisions of this subdivision shall not apply to variable account accumulations as defined in section 354.05, subdivision 23.

In no case shall the annuity payable herein be less than the amount of annuity payable pursuant to section 354.44, subdivisions 6 and 7.

The requirements and provisions for retirement prior to age 65 contained in section 354.44, subdivision 6, clause (2) shall also apply to an employee fulfilling the requirements with a combination of service as provided in section 354.60.

The augmentation provided by this subdivision shall not apply to any period in which a person is on an approved leave of absence from an employer unit covered by the provisions of this chapter.

Sec. 35. Minnesota Statutes 1984, section 354.62, subdivision 2, is amended to read:

Subd. 2. [INDIVIDUAL ELECTION.] Each member of the teachers retirement association may elect to participate in the variable annuity division by filing a written notice with the board of trustees on forms provided by the board.

(1) Employee variable annuity contributions to the variable annuity division shall be pursuant to the option available in section 354.44, subdivision 7, the employee variable annuity contributions shall be an amount equal to one-half of the employee rates specified in section 354.42, subdivision 2.

(2) Employer variable annuity contributions shall be an amount equal to the employee variable annuity contributions provided in clause (1). The deficiency in equal employer variable annuity contributions which shall exist prior to July 1, 1975 shall be recovered from the additional employer contributions made prior to July 1, 1975 pursuant to section 354.42, subdivision 5.

(3) There shall be provided for members participating in the variable annuity division a separate account for each member which will show his variable account accumulations as defined in section 354.05, subdivision 23. The board shall establish such other accounts in the variable annuity division as it deems necessary for the operation of this provision.

(4) After June 30, 1974 there shall be no new participants in this program.

(5) ~~Effective July 1, 1978, no future employee and employer contributions shall be credited to any accounts in the variable annuity division unless the member elects continued participation in the variable annuity division pursuant~~

~~to section 354.621~~ Any active member currently participating in the variable annuity division may elect to cease participation in the variable annuity division effective the July 1 following the filing of a written notice with the board of trustees on forms provided by the board. If this election is made, all future contributions will go to the formula program."

Page 6, line 25, strike "amortized"

Page 7, line 8, delete "subtracting" and insert "subtracting"

Page 19, delete section 10 and insert:

"Sec. 41. Laws 1984, chapter 501, section 1, is amended to read:

Section 1. [ST. LOUIS COUNTY EMERGENCY JOBS PROGRAM.]

St. Louis county may establish an emergency employment program to meet the needs of its unemployed residents. The county board of commissioners shall establish rules governing the operation of the employment program. Rules shall include but not be limited to number of hours worked, wages, benefits, and methods and terms of payment. Limits imposed by civil service rules shall not apply to an emergency jobs program established under the authority of this section. Service in a St. Louis county emergency jobs program shall not constitute employment under Minnesota Statutes, chapter 268, but shall come within the exclusion established in Minnesota Statutes, section 268.04, subdivision 12, clause (10)(d), and St. Louis county shall not be liable for contributions to the unemployment compensation fund for participants of an emergency jobs program. *Service in the emergency jobs program is not covered by Minnesota Statutes, chapter 353, and persons providing the services are excluded employees with respect to those services for purposes of chapter 353.*

Sec. 42. [PAYMENT OF VOLUNTARY ASSESSMENTS.]

Subdivision 1. [AUTHORITY.] Notwithstanding the provisions of Minnesota Statutes, section 353.01, subdivision 16, the persons described in subdivision 2 shall be entitled to pay to the public employees retirement association voluntary assessments. The amount of the payment shall be governed by Minnesota Statutes, section 353.27, subdivision 2, with cumulative interest thereon at the rate of six percent per annum, compounded annually.

Subd. 2. [ELIGIBLE EMPLOYEES.] From the public employees retirement association, a member who is currently employed by independent school district No. 281, who was absent from employment due to illness between April 22, 1981, and September 1, 1981, and who did not have the required deductions made from income received between July 1, 1981, and September 1, 1981, shall be entitled to pay the voluntary assessments.

Subd. 3. [EMPLOYER CONTRIBUTION.] Payment of the voluntary assessments shall be made by a person entitled to pay the voluntary assessments and the current employer of the person shall pay from funds provided in Minnesota Statutes, section 353.28, all of the employer contribution payment amount pursuant to Minnesota Statutes, section 353.27, subdivisions 3 and 3a, with interest thereon at the rate of six percent per annum, compounded annually, from July 1, 1981.

Sec. 43. [PURCHASE OF PRIOR SERVICE CREDIT.]

A member of the teachers retirement association who has been employed or is presently employed by an organization designated in Minnesota Statutes 1984, section 354.41, subdivision 4, may purchase up to ten years of allowable service credit in the teachers retirement association for service rendered to the organization. Service credit for the service rendered shall be credited upon payment pursuant to Minnesota Statutes 1984, section 354.41, subdivision 5. Payment shall be made before July 1, 1985, or date of retirement, whichever is earlier.

Sec. 44. [ELECTION OF COVERAGE; TRANSITION.]

A current employee or official enumerated in Minnesota Statutes, section 352D.02, subdivision 1a, as added by section 13, who has coverage in either the state employees retirement fund or the public employees retirement association on the effective date of this act may elect coverage by the Minnesota retirement savings plan. If coverage is elected, accumulated employee and matching employer contributions shall be transferred to the plan, as provided in Minnesota Statutes, section 352D.03.

The executive director of the state retirement system or the public employees retirement association, as appropriate, shall notify current employees or officials of the option within 90 days following the effective date of this act. An employee or official eligible to elect coverage by the plan shall notify the appropriate director within 90 days after the date of notice. An election to participate in the plan is irrevocable during any current or subsequent period of employment.

Sec. 45. [RETROACTIVE EFFECT.]

Laws 1984, chapter 574, section 8, is applicable to any person who was employed with the legislature or any commission or agency of the legislature on April 26, 1984, as a permanent full-time unclassified employee.

Sec. 46. [REPAYMENT OF REFUNDS.]

Notwithstanding any law to the contrary, a current state employee or a person who has been an employee of the state covered by the Minnesota state retirement system regular plan and who has received a refund under that plan and who has become or later becomes a full-time permanent unclassified employee of the legislature or any agency or commission of the legislature, is entitled to repay the refund with interest under Minnesota Statutes, chapter 352D, and have those contributions transferred to the plan under Minnesota Statutes, section 352D.02, subdivision 1b.

Sec. 47. [INSTRUCTION TO REVISOR.]

In the next and subsequent edition of Minnesota Statutes, the revisor of statutes shall change any references to the "unclassified plan" to the "retirement savings plan."

Sec. 48. [REPEALER.]

Minnesota Statutes 1984, sections 352.113, subdivision 5; and 352D.02, subdivision 1a, are repealed July 1, 1985. Minnesota Statutes 1984, section 354.621, is repealed the day following final enactment.

Sec. 49. [EFFECTIVE DATE.]

Sections 3, 4, 6 to 21, 24 and 26 are effective July 1, 1985. Section 30 is

effective retroactively for benefits first accruing after September 1, 1984. The remaining sections are effective the day following final enactment. The provisions of section 3 providing that workers' compensation benefits are to be offset by the amount of disability benefits from the Minnesota state retirement system are effective for all disability claims filed with the Minnesota state retirement system on or after July 1, 1985."

Renumber the sections in sequence

Amend the title as follows:

Page 1, line 4, after the semicolon, insert "176.021, subdivision 7; 352.01, subdivision 11; 352.029; 352.22, subdivision 3; 352.95, subdivision 1; 352B.10; 352D.01; 352D.015, subdivisions 2, 4, and 5; 352D.02; 352D.05, subdivision 4; 352D.06, subdivision 1; 352D.065, subdivision 5; 352D.085, subdivision 1; 352D.09, subdivisions 1 and 7; 352D.11, subdivisions 1 and 4; 352E.01, subdivision 2; 352E.04; 353.01, subdivision 2a; 353.27, subdivision 12; 353.656, subdivision 1;"

Page 1, line 5, delete the second "subdivision" and insert "subdivisions 5 and" and after "6;" insert "354.48, subdivisions 3, 6, and 7; 354.49, subdivision 2; 354.55, subdivision 11; 354.62, subdivision 2;"

Page 1, line 7, delete "and" and before the period, insert "; and Laws 1984, chapter 501, section 1; repealing Minnesota Statutes 1984, sections 352.113, subdivision 5; 352D.02, subdivision 1a; and 354.621"

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

Mr. Solon from the Committee on Economic Development and Commerce, to which was re-referred

S.F. No. 607: A bill for an act relating to financial institutions; authorizing interstate acquisition and formation of banks between this state and certain states on a reciprocal basis; proposing coding for new law in Minnesota Statutes, chapter 48.

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

Page 1, line 15, delete "and prior to"

Page 1, line 16, delete "July 1, 1988"

Page 3, delete line 17

Page 3, line 18, delete "and"

Page 3, line 19, delete "and after July 1, 1988, any other state" and insert "Colorado, Idaho, Kansas, Michigan, Missouri, Montana, Nebraska, Oregon, Utah, Washington, and Wyoming"

Page 3, line 23, delete "with banking subsidiaries"

Page 8, line 10, delete "an out-of-state" and insert "a reciprocating state"

Page 8, delete lines 16 to 20

Page 8, line 21, delete everything before "The"

Page 9, line 6, delete "Only"

Page 9, delete lines 7 and 8

Page 9, line 14, delete "out-of-state" and insert "reciprocating state"

Page 9, line 18, delete "An out-of-state" and insert "A reciprocating state"

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

Ms. Berglin from the Committee on Health and Human Services, to which was referred

H.F. No. 702: A bill for an act relating to human services; requiring notice to the designated agency in certain proceedings pertaining to persons committed as mentally ill and dangerous; authorizing the commissioner to transfer persons committed as mentally ill and dangerous between regional centers under certain circumstances; amending Minnesota Statutes 1984, sections 253B.14; 253B.18, subdivisions 4b, 5, and 6; and 253B.23, subdivision 7.

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

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 1984, section 246.04, is amended to read:

246.04 [BOOKS AND ACCOUNTS.]

The commissioner of human services shall keep at his office a proper and complete system of books and accounts with each institution, showing every expenditure authorized and made therefor. Such books shall contain a separate account of each extraordinary or special appropriation made by the legislature, with every item of expenditure therefrom. *The commissioner shall maintain a separate fund for all chemical dependency appropriations that will provide for an ascertainable review of receipts and expenditures under section 246.18, subdivision 2.*

Sec. 2. Minnesota Statutes 1984, section 246.18, is amended to read:

246.18 [DISPOSAL OF FUNDS.]

Subdivision 1. [GENERALLY.] Except as provided in subdivision 2, every officer and employee of the several institutions under the jurisdiction of the commissioner of human services shall pay to the accounting officer thereof any funds in his hands belonging to the institution. Every accounting officer, at the close of each month or oftener, shall forward to the commissioner of human services a statement of the amount and sources of all moneys received. On receipt of such statement, the commissioner shall transmit the same to the commissioner of finance, who shall deliver to the state treasurer a draft upon the accounting officer for the same specifying the funds to which it is to be credited. Upon payment of such draft, the amount shall be so credited.

Subd. 2. [CHEMICAL DEPENDENCY FUND.] Money received by a chemical dependency treatment facility operated by a hospital or nursing

home under the jurisdiction of the commissioner of human services must be deposited in the state treasury and credited to a chemical dependency fund. Money in the chemical dependency fund is appropriated to the commissioner to operate chemical dependency programs.

Subd. 3. [CHEMICAL DEPENDENCY ACCOUNTS.] The commissioner of finance shall provide accounting procedures for separate interest bearing chemical dependency accounts within the chemical dependency fund for each state facility providing chemical dependency services that will allow money to be readily available to finance chemical dependency programs. After June 30, 1989, the commissioner must not allocate money to a state facility for chemical dependency programs in excess of the amount of deposits of money received by the facility and deposited in the facility's chemical dependency account without the approval of the governor after consultation with the legislative advisory commission.

Sec. 3. Minnesota Statutes 1984, section 246.23, is amended to read:

246.23 [PERSONS ADMISSIBLE TO INSTITUTIONS.]

No person who has not a settlement in a county, as defined in section 256D.18, shall be admitted to a hospital for the mentally ill, the school for the deaf, the Minnesota braille and sightsaving school, the schools and hospitals for the mentally retarded and persons having epilepsy, or the Owatonna state school, except that the commissioner of human services may authorize admission thereto when the residence cannot be ascertained, or when the circumstances in his judgment make it advisable. *Except for emergency admissions under sections 253B.05 and 253B.11, or when authorized by the commissioner, a chemical dependency program must not admit a chemically dependent person unless that person has been placed by a county that is responsible for payment, or unless the hospital obtains approval of the admission from the county financially responsible for the person. The commissioner shall ensure that cooperative and effective relationships are developed between counties and state hospitals and between the various state hospital chemical dependency programs. In carrying out this responsibility the commissioner shall maintain and enhance a regionally based system of chemical dependency programs.* When application is made to a judge of probate for admission to any of the institutions above named for admission thereto, if he finds that the person for whom application is made has not such residence, or that his residence cannot be ascertained, he shall so report to the commissioner; and he may recommend that such person be admitted notwithstanding, giving his reasons therefor. The commissioner of human services shall thereupon investigate the question of residence and, if he finds that such person has not such residence and has a legal residence in another state or country, he may cause him to be returned thereto at the expense of this state. When the overseer of a county poorhouse believes an inmate thereof not to have a residence in the state, but to have a residence elsewhere, he shall so notify the commissioner of human services who shall thereupon proceed in the manner above provided; except that, if deemed impracticable to return such person to the state of his residence, he may so certify and such person shall thereafter be a charge upon the county, town or city in which he has longest resided within the preceding year.

Sec. 4. Minnesota Statutes 1984, section 246.50, is amended by adding a subdivision to read:

Subd. 9. "Chemical dependency programs" means all planned services for chemically dependent persons provided by the commissioner in a specific state hospital, and the chemical dependency unit operated by the Ah-Gwah-Ching nursing home.

Sec. 5. Minnesota Statutes 1984, section 246.51, subdivision 1, is amended to read:

Subdivision 1. [PROCEDURES.] The commissioner shall make investigation as necessary to determine, and as circumstances require redetermine, what part of the cost of care, if any, the patient is able to pay. If the patient is unable to pay the full cost of care the commissioner shall make a determination as to the ability of the relatives to pay. The patient or relatives or both shall provide the commissioner documents and proofs necessary to determine their ability to pay. Failure to provide the commissioner with sufficient information to determine ability to pay may make the patient or relatives, both, liable for the full ~~per capita~~ cost of care until the time when sufficient information is provided. No parent shall be liable for the cost of care given a patient at a state hospital after the patient has reached the age of 18 years. The commissioner's determination shall be conclusive in any action to enforce payment of the cost of care unless appealed from as provided in section 246.55. All money received, *except for chemical dependency receipts*, shall be paid to the state treasurer and placed in the general fund of the state and a separate account kept of it. Responsibility under this section shall not apply to those relatives having gross earnings of less than \$11,000 per year.

Sec. 6. Minnesota Statutes 1984, section 246.54, is amended to read:

246.54 [LIABILITY OF COUNTY; REIMBURSEMENT.]

Except for chemical dependency services provided under chapter 254B, the patient's county shall pay to the state of Minnesota a portion of the cost of care provided in a state hospital to a patient legally settled in that county. A county's payment shall be made from the county's own sources of revenue and payments shall be paid as follows: payments to the state from the county shall equal ten percent of the per capita rate, as determined by the commissioner, for each day, or the portion thereof, that the patient spends at a state hospital. If payments received by the state under sections 246.50 to 246.53 exceed 90 percent of the per capita rate, the county shall be responsible for paying the state only the remaining amount. The county shall not be entitled to reimbursement from the patient, the patient's estate, or from the patient's relatives, except as provided in section 246.53. No such payments shall be made for any patient who was last committed prior to July 1, 1947.

Sec. 7. [246.64] [CHEMICAL DEPENDENCY SERVICE AGREEMENTS.]

Subdivision 1. [CHEMICAL DEPENDENCY RATES.] Notwithstanding sections 246.50, subdivision 5; 246.511; and 251.011; the commissioner shall establish separate rates for each chemical dependency service operated by the commissioner and may establish separate rates for each service component within the program by establishing fees for services or different per diem rates for each separate chemical dependency unit within the program based on actual costs attributable to the service or unit. The rate must allocate the cost of all anticipated maintenance, treatment, and expenses including

depreciation of buildings and equipment, interest paid on bonds issued for capital improvements for chemical dependency programs, reimbursement and other indirect costs related to the operation of chemical dependency programs other than that paid from the Minnesota state building fund, and losses due to bad debt.

Subd. 2. [DEPRECIATION COLLECTIONS.] Depreciation collected under subdivision 1 must be credited to the general fund. Principal and interest on the bonded debt collected under subdivision 1 must be credited to the state bond fund.

Subd. 3. [RESPONSIBILITIES OF COMMISSIONER.] The commissioner shall credit all receipts from billings for rates set in subdivision 1, except those credited according to subdivision 2, to the chemical dependency fund. This money must not be used for a hospital activity that is not a chemical dependency service or an allocation of expenditures that are included in the base for computation of the rates under subdivision 1. The commissioner may expand chemical dependency services so long as expenditures are recovered by patient fees. The commissioner may expand or reduce chemical dependency staff complement as long as expenditures are recovered by patient fees.

Sec. 8. Minnesota Statutes 1984, section 252.291, subdivision 2, is amended to read:

Subd. 2. [EXCEPTIONS.] The commissioner of human services in coordination with the commissioner of health may approve a new intermediate care facility for mentally retarded persons only in the following circumstances:

(a) when the facility is developed in accordance with a request for proposal system established pursuant to subdivision 3, clause (b);

(b) ~~when the facility~~ and is necessary to serve the needs of identifiable mentally retarded persons who are seriously behaviorally disordered or who are physically or sensorily impaired; or

(c) (b) to license beds in new facilities where need was determined by the commissioner prior to June 10, 1983.

Sec. 9. Minnesota Statutes 1984, section 252.291, subdivision 3, is amended to read:

Subd. 3. [DUTIES OF COMMISSIONER OF HUMAN SERVICES.] The commissioner shall:

(a) establish and enforce standard admission criteria for state hospitals and county utilization targets to limit and reduce the number of intermediate care beds in state hospitals and community facilities in accordance with approved waivers under United States Code, title 42, sections 1396 to 1396p, as amended through December 31, 1982, to assure that appropriate services are provided in the least restrictive setting;

(b) provide technical assistance so that county boards may establish a request for proposal system for meeting individual service plan objectives through home and community-based services; alternative community services; or, if no other alternative will meet the needs of identifiable individuals

for whom the county is financially responsible, a new intermediate care facility for mentally retarded persons; and

(c) establish a client tracking and evaluation system as required under applicable federal waiver regulations, Code of Federal Regulations, title 42, sections 431, 435, 440, and 441, as amended through December 31, 1982.

(d) develop a state plan for the delivery and funding of residential day and support services to the mentally retarded in Minnesota and submit that plan to the clerk of each house of the Minnesota legislature on or before the 15th of January of each biennium beginning January 15, 1985. The biennial mental retardation plan shall include but not be limited to:

- (1) county by county maximum intermediate care bed utilization quotas;
- (2) plans for the development of the number and types of services alternative to intermediate care beds;
- (3) procedures for the administration and management of the plan;
- (4) procedures for the evaluation of the implementation of the plan; and
- (5) the number, type, and location of intermediate care beds targeted for decertification.

The commissioner shall modify the plan to ensure conformance with the medical assistance home and community-based services waiver.

Sec. 10. Minnesota Statutes 1984, section 252.32, is amended to read:

252.32 [FAMILY SUBSIDY SUPPORT PROGRAM.]

Subdivision 1. [PROGRAM ESTABLISHED; APPLICATION.] Within the limits of appropriations, the commissioner of human services may provide subsidies to families with mentally retarded children in order to enable those families to continue caring for the children in their own homes. The commissioner may establish criteria for determining eligibility for a subsidy and subsidy amounts and conditions for use of subsidies. The commissioner of human services shall establish a program to provide subsidies to families to enable them to care for their dependents with handicaps in their own homes. This program is limited to families with dependents under the age of 22 who are mentally retarded and otherwise would require or be eligible for placement in a licensed residential facility under section 245.782, subdivision 6. Applications for the subsidy must be made by the county social service agency to the department of human services. The application must specify the needs of the family and how the subsidy will be used.

Subd. 2. [INDIVIDUAL SERVICE PLAN.] An individual service plan for the dependent must be developed by the county social service agency and agreed to by the parents. A transitional plan must be developed for the dependent when the dependent turns age 17 in order to assure an orderly transition to other services when the family terminates services under this program.

Subd. 3. [SUBSIDY AMOUNT; USE.] Subsidy amounts must be determined by the commissioner of human services. The subsidy may be used to cover the costs of special equipment, special clothing or diets, related transportation, therapy, medications, respite care, medical care, diagnostic assessments, modifications to a home or vehicle, and other services or items

that assist the family and dependent. The maximum monthly amount is \$250, except that a variance may be granted by the commissioner for special or emergency circumstances.

Sec. 11. Minnesota Statutes 1984, section 253B.14, is amended to read:

253B.14 [TRANSFER OF COMMITTED PERSONS.]

The commissioner may transfer any committed person, ~~other than a person committed as mentally ill and dangerous to the public,~~ from one regional center to any other institution under his jurisdiction which is capable of providing proper care and treatment. When a committed person is transferred from one treatment facility to another, written notice shall be given to the committing court and to his parent or spouse or, if none is known, to an interested person, and the designated agency. *A person committed as mentally ill and dangerous may be transferred out of the Minnesota Security Hospital and between treatment facilities pursuant to section 253B.18, subdivision 6.*

Sec. 12. Minnesota Statutes 1984, section 253B.18, subdivision. 4b, is amended to read:

Subd. 4b. [PASS-ELIGIBLE STATUS; NOTIFICATION.] The following patients committed to the Minnesota security hospital shall not be placed on pass-eligible status unless that status has been approved by the medical director of the Minnesota security hospital:

(a) a patient who has been committed as mentally ill and dangerous and who

(1) was found incompetent to proceed to trial for a felony or was found not guilty by reason of mental illness of a felony immediately prior to the filing of the commitment petition;

(2) was convicted of a felony immediately prior to or during his commitment as mentally ill and dangerous; or

(3) is subject to a commitment to the commissioner of corrections; and

(b) a patient who has been committed as a psychopathic personality, as defined in section 526.09.

At least ten days prior to a determination on the status, the medical director shall notify *the designated agency*, the committing court, the county attorney of the county of commitment, an interested person, the petitioner, and the petitioner's counsel of the proposed status, and their right to request review by the special review board. If within ten days of receiving notice any notified person requests review by filing a notice of objection with the commissioner and the head of the treatment facility, a hearing shall be held before the special review board. The proposed status shall not be implemented unless it receives a favorable recommendation by a majority of the board and approval by the commissioner. The order of the commissioner is appealable as provided in section 253B.19.

Nothing in this subdivision shall be construed to give a patient an affirmative right to seek pass-eligible status from the special review board.

Sec. 13. Minnesota Statutes 1984, section 253B.18, subdivision 5, is amended to read:

Subd. 5. [PETITION; NOTICE OF HEARING; ATTENDANCE; ORDER.] A petition for an order of transfer, discharge, provisional discharge, or revocation of provisional discharge shall be filed with the commissioner and may be filed by the patient or by the head of the treatment facility. The special review board shall hold a hearing on each petition prior to making any recommendation. Within 45 days of the filing of the petition, *the designated agency*, the committing court, the county attorney of the county of commitment, an interested person, the petitioner and his counsel shall be given written notice by the commissioner of the time and place of the hearing before the special review board. Only those entitled to statutory notice of the hearing or those administratively required to attend may be present at the hearing. The commissioner shall issue his order no later than 14 days after receiving the recommendation of the special review board. A copy of the order shall be sent by certified mail to every person entitled to statutory notice of the hearing within five days after it is issued. No order by the commissioner shall be effective sooner than 15 days after it is issued.

Sec. 14. Minnesota Statutes 1984, section 253B.18, subdivision 6, is amended to read:

Subd. 6. [TRANSFER.] (a) Persons who have been found by the committing court to be mentally ill and dangerous to the public shall not be transferred out of the Minnesota Security Hospital unless it appears to the satisfaction of the commissioner, after a hearing and favorable recommendation by a majority of the special review board, that the transfer is appropriate. Transfer may be to other regional centers under the commissioner's control. In those instances where a commitment also exists to the department of corrections, transfer may be to a facility designated by the commissioner of corrections. *The commissioner, at his or her discretion, may transfer any person committed as mentally ill and dangerous from a regional center to the Minnesota Security Hospital or between regional centers.*

The following factors are to be considered in determining whether a transfer is appropriate:

(i) the person's clinical progress and present treatment needs;

(ii) the need for security to accomplish continuing treatment;

(iii) the need for continued institutionalization;

(iv) which facility can best meet the person's needs; and

(v) whether transfer can be accomplished with a reasonable degree of safety for the public.

Sec. 15. Minnesota Statutes 1984, section 253B.23, subdivision 7, is amended to read:

Subd. 7. [APPEAL.] The commissioner or any other aggrieved party may appeal to the court of appeals from any order entered under this chapter as in other civil cases.

Upon perfection of the appeal, the return shall be filed forthwith. *Except for an appeal heard pursuant to section 253B.19*, the court of appeals shall hear the appeal within 45 days after service of the notice of appeal. This appeal shall not suspend the operation of the order appealed from until the

appeal is determined, unless otherwise ordered by the court of appeals.

Sec. 16. [254B.01] [DEFINITIONS.]

Subdivision 1. [APPLICABILITY.] The definitions in this section apply to sections 254B.01 to 254B.09.

Subd. 2. [AMERICAN INDIAN.] For purposes of services provided under section 254B.09, subdivision 5, "American Indian" means a person of one-quarter or more Indian blood. For purposes of services provided under section 254B.09, subdivision 4, "American Indian" means a resident of federally recognized tribal lands who is recognized as an Indian person by the federally recognized tribal governing body.

Subd. 3. [CHEMICAL DEPENDENCY SERVICES.] "Chemical dependency services" means a planned program of care for the treatment of chemical dependency or chemical abuse to minimize or prevent further chemical abuse by the person. Diagnostic, evaluation, prevention, referral, detoxification, and aftercare services that are not part of a program of care licensable as a residential or nonresidential chemical dependency treatment program are not chemical dependency services for purposes of this section.

Subd. 4. [COMMISSIONER.] Unless otherwise indicated, "commissioner" means the commissioner of human services.

Subd. 5. [LOCAL AGENCY.] "Local agency" means the agency designated by a board of county commissioners or a human services board to make placements and submit state invoices according to sections 254B.01 to 254B.09.

Subd. 6. [LOCAL MONEY.] "Local money" means county levies, community social services block grants, federal social services money, or other money that may be spent at county discretion to provide chemical dependency services eligible for payment according to sections 254B.01 to 254B.09.

Sec. 17. [254B.02] [CHEMICAL DEPENDENCY ALLOCATION PROCESS.]

Subdivision 1. [CHEMICAL DEPENDENCY TREATMENT ALLOCATION.] The commissioner shall annually divide the money available in the chemical dependency fund that is not held in reserve by counties from a previous allocation. Fifteen percent of the money must be set aside as a reserve account for county payment under subdivision 3. Twelve percent of the money must be reserved for treatment of American Indians by eligible vendors under section 254B.09. The remainder of the money must be allocated among the counties according to the following formula, using the most recent data available from the state demographer:

(a) The average of the median income of the state for the last three years for which data is available must be divided by the average median income of each county for the last three years for which data is available, to determine the income factor for the county.

(b) The income factor must be multiplied by the population of the county less the population of American Indians in the county, to determine the adjusted population.

(c) *The adjusted population of the county must be divided by the sum of all county adjusted populations to determine the allocation rate.*

(d) *The allocation rate must be multiplied by the remainder of the money after set-asides to determine the allocation to each county.*

Subd. 2. [COUNTY ADJUSTMENT; MAXIMUM ALLOCATION.] *The commissioner shall determine the state money used by each county in fiscal year 1985, using all state data sources. If available records do not provide specific chemical dependency expenditures for every county, the commissioner shall determine the amount of state money using estimates based on available data. In state fiscal year 1987, a county must not be allocated more than 150 percent of the state money spent by or on behalf of the county for chemical dependency treatment services eligible for payment under section 254B.05. For fiscal years 1988 and 1989, the allocation maximums are 200 and 250 percent of fiscal year 1985 state money used, respectively. The commissioner shall reallocate the excess over the maximum to counties allocated less than the fiscal year 1985 state money, using the following process:*

(a) *The allocation is divided by 1985 state expenditures to determine percentage of prior expenditure, and counties are ranked by percentage of prior expenditure.*

(b) *The allocation of the lowest ranked county is raised to the same percentage of prior expenditure as the second lowest ranked county. The allocation of these two counties is then raised to the percentage of prior expenditures of the third lowest ranked county.*

(c) *The operations under paragraph (b) are repeated with each county by ranking until the money in excess of the allocation maximum has been allocated.*

Subd. 3. [RESERVE ACCOUNT.] *The commissioner shall allocate money from the reserve account to counties that, during the current fiscal year, have met or exceeded the base level of expenditures for eligible chemical dependency services from local money. The commissioner shall establish the base level for fiscal year 1987 as the amount of local money used for eligible services in calendar year 1985. In later years, the base level must be increased in the same proportion as state appropriations to implement sections 254B.01 to 254B.09 are increased. The base level must not be decreased if appropriations are decreased in later years. The local match rate for the reserve account is the same rate as applied to the initial allocation. Money must be allocated as invoices are received. Reserve account payments must not be included when calculating the county adjustments made according to subdivision 2. A county must not receive more than 30 percent of the total reserve account that is available at the beginning of the fiscal year.*

Subd. 4. [ALLOCATION SPENDING LIMITS.] *Money allocated according to subdivision 1 and section 256B.09, subdivision 3, is available for payments for up to two years. The commissioner shall deduct payments from the most recent year allocation in which money is available. Allocations under this section that are not used within two years must be reallocated to the reserve account for payments according to subdivision 3. Allocations*

under section 256B.09, subdivision 3, that are not used within two years must be reallocated for payments under section 256B.09, subdivision 4.

Subd. 5. [ADMINISTRATIVE ADJUSTMENT.] The commissioner may make payments to local agencies from money allocated under this section to support administrative activities under sections 254B.03 and 254B.04. The administrative payment must not exceed three percent of the county allocation and must not be paid if the level of expenditures indicates that the allocation for the year will be exhausted by payments for services from the allocation. The payment must be made under this section at the end of each state fiscal year from any unspent allocation for that year.

Sec. 18. [254B.03] [RESPONSIBILITY TO PROVIDE CHEMICAL DEPENDENCY TREATMENT.]

Subdivision 1. [LOCAL AGENCY DUTIES.] (a) Every local agency shall provide chemical dependency services to persons residing within its jurisdiction who meet criteria established by the commissioner for placement in a chemical dependency residential or nonresidential treatment service. Chemical dependency money must be administered by the local agencies according to law and rules adopted by the commissioner under sections 14.01 to 14.69.

(b) In order to contain costs, the county board shall, with the approval of the commissioner of human services, select eligible vendors of chemical dependency services who can provide economical care. The commissioner may approve proposals from county boards to provide services in an economical manner or to control utilization, with safeguards to ensure that necessary services are provided. If a county implements a demonstration or experimental medical services funding plan, the commissioner shall transfer the money as appropriate.

Subd. 2. [CHEMICAL DEPENDENCY SERVICES.] (a) Payment from the chemical dependency fund is limited to payments for services other than detoxification that, if located outside of a licensed hospital and federally recognized tribal lands, would be required to be licensed by the commissioner as a residential or nonresidential treatment program under sections 245.781 to 245.812. Vendors receiving payments from the chemical dependency fund must not require copayment from a recipient of benefits for services provided under this subdivision.

(b) A county may, from its own resources, provide chemical dependency services for which state payments are not made.

Subd. 3. [LOCAL AGENCIES TO PAY STATE FOR COUNTY SHARE.] Local agencies shall submit invoices to the state on forms supplied by the commissioner and according to procedures established by the commissioner. Local agencies shall pay the state for the county share of the invoiced services.

Subd. 4. [DIVISION OF COSTS.] The county shall reimburse the state for 15 percent of the cost of chemical dependency services costs paid by the state under this section. Fifteen percent of any state collections from private or third-party pay must be distributed to the county that paid for the treatment under this section.

Subd. 5. [RULES.] The commissioner shall adopt rules as necessary to

implement sections 254B.01 to 254B.09.

Sec. 19. [254B.04] [ELIGIBILITY FOR CHEMICAL DEPENDENCY FUND SERVICES.]

Subdivision 1. [ELIGIBILITY.] Persons eligible for benefits under sections 256D.01 to 256D.21 and persons eligible for federal health care benefits under section 256B.06 are entitled to chemical dependency fund services.

Subd. 2. [AMOUNT OF CONTRIBUTION.] The commissioner shall adopt a sliding fee scale to determine the amount of contribution to be required from persons whose income and nonexempt property are greater than the standard of assistance under sections 256B.06 and 256D.01 to 256D.21. The commissioner may adopt an existing fee scale from another assistance program or from the state facilities by publication in the state register. The fee scale must not provide assistance to persons whose income is more than 115 percent of the state median income. Payments of liabilities under this section are medical expenses for purposes of determining spend-down under sections 256B.06 and 256D.01 to 256D.21.

Sec. 20. [254B.05] [VENDOR ELIGIBILITY.]

Programs licensed by the commissioner are eligible vendors. Hospital and American Indian programs that, if located outside of a licensed hospital or outside of federally recognized tribal lands, would be required to be licensed to provide chemical dependency primary treatment, extended care, transitional residence, or outpatient treatment services, are eligible vendors. Detoxification programs are not eligible vendors. Programs that, if located outside of a hospital and outside of federally recognized tribal lands, would not be licensed as a chemical dependency residential or nonresidential treatment program under sections 245.781 to 245.812 are not eligible vendors.

Sec. 21. [254B.06] [REIMBURSEMENT; PAYMENT; DENIAL.]

Subdivision 1. [STATE COLLECTIONS.] The commissioner is responsible for all collections from persons determined to be partially responsible for the cost of care of an eligible person receiving services under sections 254B.01 to 254B.09. The commissioner may collect all third-party payments for chemical dependency services provided under sections 254B.01 to 254B.09, including private insurance and federal medicaid and medicare financial participation. The commissioner shall credit to the general fund a percentage of collections to pay for the cost of billing and collections. The remaining receipts must be credited to the chemical dependency fund.

Subd. 2. [ALLOCATION OF COLLECTIONS.] The commissioner shall allocate all federal financial participation collections to counties under section 254B.02, subdivision 1. Section 254B.02, subdivision 2, must not be applied to the quarterly allocation of federal money. The commissioner shall retain 85 percent of patient payments and third-party payments and allocate the collections to the reserve account established under section 254B.02, subdivision 3. Fifteen percent of patient and third-party payments must be paid to the county financially responsible for the patient.

Subd. 3. [PAYMENT; DENIAL.] The commissioner shall pay eligible vendors for placements made by local agencies under section 254B.03, sub-

division 1, and placements by tribal designated agencies according to section 254B.09. The commissioner may reduce or deny payment of the state share when services are not provided according to the placement criteria established by the commissioner. The commissioner may pay for all or a portion of improper county chemical dependency placements and bill the county for the entire payment made when the placement did not comply with criteria established by the commissioner.

Sec. 22. [254B.07] [THIRD-PARTY LIABILITY.]

The state agency provision and payment of, or liability for, chemical dependency medical care is the same as in section 256B.042.

Sec. 23. [254B.08] [FEDERAL WAIVERS.]

The commissioner shall apply for any federal waivers necessary to secure, to the extent allowed by law, federal financial participation for the provision of services to persons who need chemical dependency services. The commissioner may seek amendments to the waivers or apply for additional waivers to contain costs. The commissioner shall ensure that payment for the cost of providing chemical dependency services under the federal waiver plan does not exceed the cost of chemical dependency services that would have been provided without the waived services.

Sec. 24. [254B.09] [INDIAN RESERVATION ALLOCATION OF CHEMICAL DEPENDENCY FUND.]

Subdivision 1. [AMERICAN INDIAN CHEMICAL DEPENDENCY ACCOUNT.] The commissioner shall pay eligible vendors for chemical dependency services to American Indians on the same basis as other payments, except that no local match is required when an invoice is submitted by the governing authority of a federally recognized American Indian tribal body on behalf of a current resident of the reservation under this section.

Subd. 2. [AMERICAN INDIAN AGREEMENTS.] The commissioner may enter into agreements with federally recognized tribal units to pay for chemical dependency treatment services provided under sections 254B.01 to 254B.09. The agreements must require the governing body of the tribal unit to fulfill all county responsibilities regarding the form and manner of invoicing, and provide that only invoices for eligible vendors according to section 254B.05 will be included in invoices sent to the commissioner for payment, to the extent that money allocated under subdivision 3 is used.

Subd. 3. [TRIBAL NONPARTICIPATION.] If a federally recognized tribal governing body has not entered into an agreement under subdivision 2 or cancels the agreement, money must be reallocated to the account established by subdivision 5.

Subd. 4. [TRIBAL ALLOCATION.] 42.5 percent of the American Indian chemical dependency account must be allocated to the federally recognized American Indian tribal governing bodies that have entered into an agreement under subdivision 2 as follows: \$10,000 must be allocated to each governing body and the remainder must be allocated in direct proportion to the population of the reservation according to the most recently available estimates from the federal Bureau of Indian Affairs.

Subd. 5. [TRIBAL RESERVE ACCOUNT.] The commissioner shall re-

serve 7.5 percent of the American Indian chemical dependency account. The reserve must be allocated to those tribal units that have used all money allocated under subdivision 4 according to agreements made under subdivision 2. An American Indian tribal governing body may receive not more than 30 percent of the reserve account in a year. Money must be allocated as invoices are received.

Subd. 6. [AMERICAN INDIAN TRIBAL PLACEMENTS.] After entering into an agreement under subdivision 2, the governing authority of each reservation may submit invoices to the state for the cost of providing chemical dependency services to residents of the reservation according to the placement regulations governing county placements, except that local match requirements are waived. The governing body may designate an agency to act on its behalf to provide placement services and manage invoices by written notice to the commissioner and evidence of agreement by the agency designated.

Subd. 7. [NONRESERVATION INDIAN ACCOUNT.] Fifty percent of the American Indian chemical dependency allocation must be held in reserve by the commissioner in an account for treatment of Indians not residing on lands of a reservation receiving money under subdivision 4. This money must be used to pay for services certified by county invoice to have been provided to an American Indian eligible recipient. Money allocated under this subdivision may be used for payments on behalf of American Indian county residents only if, in addition to other placement standards, the county certifies that the placement was appropriate to the cultural orientation of the client.

Sec. 25. Minnesota Statutes 1984, section 256B.02, subdivision 8, is amended to read:

Subd. 8. [MEDICAL ASSISTANCE; MEDICAL CARE.] "Medical assistance" or "medical care" means payment of part or all of the cost of the following care and services for eligible individuals whose income and resources are insufficient to meet all of this cost:

(1) Inpatient hospital services. A second medical opinion is required prior to reimbursement for elective surgeries. The commissioner shall publish in the State Register a proposed list of elective surgeries that require a second medical opinion prior to reimbursement. The list is not subject to the requirements of sections 14.01 to 14.70. The commissioner's decision whether a second medical opinion is required, made in accordance with rules governing that decision, is not subject to administrative appeal;

(2) Skilled nursing home services and services of intermediate care facilities, including training and habilitation services, as defined in section 256B.50, subdivision 1, for mentally retarded individuals residing in intermediate care facilities for the mentally retarded;

(3) Physicians' services;

(4) Outpatient hospital or nonprofit community health clinic services or physician-directed clinic services. The physician-directed clinic staff shall include at least two physicians, one of whom is on the premises whenever the clinic is open, and all services shall be provided under the direct supervision of the physician who is on the premises. Hospital outpatient departments are

subject to the same limitations and reimbursements as other enrolled vendors for all services, except initial triage, emergency services, and services not provided or immediately available in clinics, physicians' offices, or by other enrolled providers. "Emergency services" means those medical services required for the immediate diagnosis and treatment of medical conditions that, if not immediately diagnosed and treated, could lead to serious physical or mental disability or death or are necessary to alleviate severe pain. Neither the hospital, its employees, nor any physician or dentist, shall be liable in any action arising out of a determination not to render emergency services or care if reasonable care is exercised in determining the condition of the person, or in determining the appropriateness of the facilities, or the qualifications and availability of personnel to render these services consistent with this section;

(5) Community mental health center services, as defined in rules adopted by the commissioner pursuant to section 256B.04, subdivision 2, and provided by a community mental health center as defined in section 245.62, subdivision 2;

(6) Home health care services;

(7) Private duty nursing services;

(8) Physical therapy and related services;

(9) Dental services, excluding cast metal restorations;

(10) Laboratory and xray services;

(11) The following if prescribed by a licensed practitioner: drugs, eyeglasses, dentures, and prosthetic devices. The commissioner shall designate a formulary committee which shall advise the commissioner on the names of drugs for which payment shall be made, recommend a system for reimbursing providers on a set fee or charge basis rather than the present system, and develop methods encouraging use of generic drugs when they are less expensive and equally effective as trademark drugs. The commissioner shall appoint the formulary committee members no later than 30 days following July 1, 1981. The formulary committee shall consist of nine members, four of whom shall be physicians who are not employed by the department of human services, and a majority of whose practice is for persons paying privately or through health insurance, three of whom shall be pharmacists who are not employed by the department of human services, and a majority of whose practice is for persons paying privately or through health insurance, a consumer representative, and a nursing home representative. Committee members shall serve two year terms and shall serve without compensation. The commissioner may establish a drug formulary. Its establishment and publication shall not be subject to the requirements of the Administrative Procedure Act, but the formulary committee shall review and comment on the formulary contents. Prior authorization may be required by the commissioner, with the consent of the drug formulary committee, before certain formulary drugs are eligible for payment. The formulary shall not include: drugs or products for which there is no federal funding; over the counter drugs, except for antacids, acetaminophen, family planning products, aspirin, insulin, prenatal vitamins, and vitamins for children under the age of seven; or any other over the counter drug identified by the commissioner, in

consultation with the appropriate professional consultants under contract with or employed by the state agency, as necessary, appropriate and cost effective for the treatment of certain specified chronic diseases, conditions or disorders, and this determination shall not be subject to the requirements of chapter 14, the Administrative Procedure Act; nutritional products, except for those products needed for treatment of phenylketonuria, hyperlysinemia, maple syrup urine disease, a combined allergy to human milk, cow milk, and soy formula, or any other childhood or adult diseases; conditions, or disorders identified by the commissioner as requiring a similarly necessary nutritional product; anorectics; and drugs for which medical value has not been established. Separate payment shall not be made for nutritional products for residents of long-term care facilities; payment for dietary requirements is a component of the per diem rate paid to these facilities. Payment to drug vendors shall not be modified before the formulary is established except that the commissioner shall not permit payment for any drugs which may not by law be included in the formulary, and his determination shall not be subject to chapter 14, the Administrative Procedure Act. The commissioner shall publish conditions for prohibiting payment for specific drugs after considering the formulary committee's recommendations.

The basis for determining the amount of payment shall be the actual acquisition costs of the drugs plus a fixed dispensing fee established by the commissioner. Actual acquisition cost includes quantity and other special discounts except time and cash discounts. Establishment of this fee shall not be subject to the requirements of the Administrative Procedure Act. Whenever a generically equivalent product is available, payment shall be on the basis of the actual acquisition cost of the generic drug, unless the prescriber specifically indicates "dispense as written" on the prescription as required by section 151.21, subdivision 2.

Notwithstanding the above provisions, implementation of any change in the fixed dispensing fee which has not been subject to the Administrative Procedure Act shall be limited to not more than 180 days, unless, during that time, the commissioner shall have initiated rulemaking through the Administrative Procedure Act;

(12) Diagnostic, screening, and preventive services;

(13) Health care pre-payment plan premiums and insurance premiums if paid directly to a vendor and supplementary medical insurance benefits under Title XVIII of the Social Security Act;

(14) Abortion services, but only if one of the following conditions is met:

(a) The abortion is a medical necessity. "Medical necessity" means (1) the signed written statement of two physicians indicating the abortion is medically necessary to prevent the death of the mother, and (2) the patient has given her consent to the abortion in writing unless the patient is physically or legally incapable of providing informed consent to the procedure, in which case consent will be given as otherwise provided by law;

(b) The pregnancy is the result of criminal sexual conduct as defined in section 609.342, clauses (c), (d), (e)(i), and (f), and the incident is reported within 48 hours after the incident occurs to a valid law enforcement agency for investigation, unless the victim is physically unable to report the criminal

sexual conduct, in which case the report shall be made within 48 hours after the victim becomes physically able to report the criminal sexual conduct; or

(c) The pregnancy is the result of incest, but only if the incident and relative are reported to a valid law enforcement agency for investigation prior to the abortion;

(15) Transportation costs incurred solely for obtaining emergency medical care or transportation costs incurred by nonambulatory persons in obtaining emergency or nonemergency medical care when paid directly to an ambulance company, common carrier, or other recognized providers of transportation services. For the purpose of this clause, a person who is incapable of transport by taxicab or bus shall be considered to be nonambulatory;

(16) To the extent authorized by rule of the state agency, costs of bus or taxicab transportation incurred by any ambulatory eligible person for obtaining nonemergency medical care;

(17) Personal care attendant services provided by an individual, not a relative, who is qualified to provide the services, where the services are prescribed by a physician in accordance with a plan of treatment and are supervised by a registered nurse. Payments to personal care attendants shall be adjusted annually to reflect changes in the cost of living or of providing services by the average annual adjustment granted to vendors such as nursing homes and home health agencies; and

(18) Any other medical or remedial care licensed and recognized under state law unless otherwise prohibited by law, *except licensed chemical dependency treatment programs or primary treatment or extended care treatment units in hospitals that are covered under sections 254B.01 to 254B.09. The commissioner shall include chemical dependency services in the state medical assistance plan for federal reporting purposes, but payment must be made under sections 254B.01 to 254B.09.*

Sec. 26. Minnesota Statutes 1984, section 256B.091, subdivision 8, is amended to read:

Subd. 8. [ALTERNATIVE CARE GRANTS.] The commissioner shall provide grants to counties participating in the program to pay costs of providing alternative care to individuals screened under subdivision 4. Payment is available under this subdivision only for individuals (1) for whom the screening team would recommend nursing home admission if alternative care were not available; (2) who are receiving medical assistance ~~or who would be eligible for medical assistance within 180 days of admission to a nursing home~~; and (3) who need services that are not available at that time in the county through other public assistance.

Grants may be used for payment of costs of providing services such as, but not limited to, foster care for elderly persons, day care whether or not offered through a nursing home, nutritional counseling, or medical social services, which services are provided by a licensed health care provider, a home health service eligible for reimbursement under Titles XVIII and XIX of the federal Social Security Act, or by persons employed by or contracted with by the county board or the local welfare agency. The county agency shall ensure that a plan of care is established for each individual in accordance with subdivision 3, clause (c)(2). The plan shall include any services prescribed by

the individual's attending physician as necessary and follow up services as necessary. The county agency shall provide documentation to the commissioner verifying that the individual's alternative care is not available at that time through any other public assistance or service program and shall provide documentation in each individual's plan of care that the most cost effective alternatives available have been offered to the individual. Grants to counties under this subdivision are subject to audit by the commissioner for fiscal and utilization control.

The commissioner shall establish a sliding fee schedule for requiring payment for the cost of providing services under this subdivision to persons who are eligible for the services but who are not yet eligible for medical assistance. The sliding fee schedule is not subject to chapter 14 but the commissioner shall publish the schedule and any later changes in the State Register and allow a period of 20 working days from the publication date for interested persons to comment before adopting the sliding fee schedule in final forms.

The commissioner shall apply for a waiver for federal financial participation to expand the availability of services under this subdivision. The commissioner shall provide grants to counties from the nonfederal share, unless the commissioner obtains a federal waiver for medical assistance payments, of medical assistance appropriations. A county agency may use grant money to supplement but not supplant services available through other public assistance or service programs and shall not use grant money to establish new programs for which public money is available through sources other than grants provided under this subdivision. A county agency shall not use grant money to provide care under this subdivision to an individual if the anticipated cost of providing this care would exceed the average payment, as determined by the commissioner, for the level of nursing home care that the recipient would receive if placed in a nursing home. The nonfederal share may be used to pay up to 90 percent of the start-up and service delivery costs of providing care under this subdivision. Each county agency that receives a grant shall pay ten percent of the costs.

The commissioner shall promulgate emergency rules in accordance with sections 14.29 to 14.36, to establish required documentation and reporting of care delivered.

Sec. 27. Minnesota Statutes 1984, section 256B.092, is amended by adding a subdivision to read:

Subd. 1a. [SCREENING.] At the time of the client's annual review, the county shall use a uniform screening tool specified by the commissioner to report the client's social, habilitative, developmental, and medical needs.

Sec. 28. Minnesota Statutes 1984, section 256B.092, subdivision 3, is amended to read:

Subd. 3. [TERMINATION OF SERVICES.] County agency case managers, under rules of the commissioner, shall authorize and terminate services of community and state hospital providers in accordance with individual service plans. Medical assistance services not needed shall not be authorized by county agencies nor funded by the commissioner. The county agencies shall not authorize, nor shall the commissioner provide medical assistance funding for, services in an intermediate care facility.

for the mentally retarded unless an individual assessment of service needs documents that:

- (1) the person has mental retardation;
- (2) the person requires 24-hour supervision and active treatment for medical, behavioral, or habilitation needs; and
- (3) less restrictive or less costly services appropriate to the client's needs cannot be made available to meet the person's assessed service needs.

The commissioner may determine whether medical assistance funding should continue to be authorized for services to an individual in an intermediate care facility for the mentally retarded. The determination must be based on the review of the individual service plan and on the findings of the Minnesota department of health quality assurance and review survey and other information that the commissioner may request.

Sec. 29. Minnesota Statutes, 1984, section 256B.092, subdivision 7, is amended to read:

Subd. 7. [SCREENING TEAMS ESTABLISHED.] Each county agency shall establish a screening team which, under the direction of the county case manager, shall make an evaluation of need for home and community-based services of persons who are ~~entitled to require~~ the level of care provided by an intermediate care facility for mentally retarded persons, an intermediate care facility, or a skilled nursing facility or for whom there is a reasonable indication that they might need the services in the near future. The screening team shall make an evaluation of need within 15 working days of the request for service after a person's individual service plan indicates that the person is in need of or may be at risk of placement in an intermediate care facility for the mentally retarded, intermediate care facility, or a skilled nursing facility and within five working days of an emergency admission of an individual to an intermediate care facility for mentally retarded persons, intermediate care facility, or a skilled nursing facility. The screening team shall consist of the case manager, the client, a parent or guardian as appropriate to the client's legal status, a qualified mental retardation professional, as defined in the Code of Federal Regulations, title 42, section 442.401, as amended through December 31, 1982, assigned by the commissioner. A qualified mental retardation professional is not required for persons being discharged from one community intermediate care facility for mentally retarded persons to another if the admitting facility is less restrictive and less costly. The case manager shall consult with the client's physician or other persons as necessary to make this evaluation. Other persons may be invited to attend meetings of the screening team. No member of the screening team shall have any direct or indirect service provider interest in the case.

Sec. 30. [256B.095] [COMMUNITY CARE INCENTIVE GRANTS.]

Subdivision 1. [GRANTS FOR ELDERLY SERVICES.] To the extent of appropriations specifically designated for this purpose, the commissioner shall provide grants to counties for community services for the elderly. Grants must be allocated according to the formula used for alternative care grants under section 256B.091, subdivision 8. Grants must be used to provide services to the elderly as part of the annual plan required under section 393.07, subdivision 2a. The county agency may use grant money to supple-

ment services available through other public assistance or service programs but must not use grant money to replace services available through other programs or to establish new programs for which public money is available through sources other than grants provided under this section. Grant money received under this section must not be used for services for persons who are receiving alternative care grant services under section 256B.091, subdivision 8.

Subd. 2. [SLIDING FEE SCHEDULE; EXEMPT RULES.] The commissioner shall establish a sliding fee schedule for requiring payment of the cost of providing services under this section to persons who are eligible for the services but who are not eligible for medical assistance. For purposes of establishing the sliding fee schedule and later amendments to it, the commissioner is exempt from the rulemaking provisions of chapter 14, except section 14.38, subdivision 7. The commissioner shall publish the sliding fee schedule and any later amendments in the State Register and allow a period of 20 working days from the publication date for interested persons to comment before adopting the sliding fee schedule in final form.

Subd. 3. [RULEMAKING.] The commissioner shall adopt emergency and permanent rules concerning the grant program.

Sec. 31. Minnesota Statutes 1984, section 256B.19, subdivision 1, is amended to read:

Subdivision 1. [DIVISION OF COST.] The cost of medical assistance paid by each county of financial responsibility shall be borne as follows: Payments shall be made by the state to the county for that portion of medical assistance paid by the federal government and the state on or before the 20th day of each month for the succeeding month upon requisition from the county showing the amount required for the succeeding month. Ninety percent of the expense of assistance not paid by federal funds available for that purpose shall be paid by the state and ten percent shall be paid by the county of financial responsibility, for the following medical assistance expenses:

(1) medical assistance expenses for all services except skilled nursing facility, intermediate care facility I, and intermediate care facility II care;

(2) medical assistance expenses for skilled nursing facility, intermediate care facility I, and intermediate care facility II care for persons who were admitted to a nursing home before July 1, 1985, but did not become eligible for medical assistance until after that date; and

(3) medical assistance expenses for skilled nursing facility, intermediate care facility I, and intermediate care facility II care for persons who were admitted to a nursing home in this state as a resident of another state and later became eligible for medical assistance as a Minnesota resident.

For all other medical assistance expenses for skilled nursing facility, intermediate care facility I, and intermediate care facility II care, payments must be made as follows:

(a) Seventy-five percent of the expense of assistance not paid by federal money available for that purpose must be paid by the state and 25 percent must be paid by the county of financial responsibility.

(b) The state shall pay to the county an additional amount equal to 15

percent of the nonfederal share of the average monthly medical assistance expense for skilled nursing facility, intermediate care facility I, and intermediate care facility II care incurred by that county during the fiscal year ending June 30, 1984, adjusted for inflation, as an incentive to the county to use noninstitutional long-term care services. This incentive payment must be made on or before the 20th day of each month for the succeeding month. Incentive payments received by a county under this paragraph must be used for nursing home care or alternative community services for the elderly. As a condition of receiving incentive payments, the county must not decrease county support of services to the elderly below the level of support that existed on January 1, 1985, according to criteria established by the commissioner of human services. The commissioner of human services may establish a separate account or fund to facilitate the payments.

For counties where health maintenance organizations are under contract to the state to provide services to medical assistance recipients, the division of the nonfederal share of medical assistance expenses for payments made to health maintenance organizations in the form of prepaid capitation payments, this division of medical assistance expenses shall be 95 percent by the state and five percent by the county of financial responsibility.

State contracts with health maintenance organizations shall assure medical assistance recipients of at least the comprehensive health maintenance services defined in section 62D.02, subdivision 7. The contracts shall require health maintenance organizations to provide information to the commissioner concerning the number of people receiving services, the number of encounters, the type of services received, evidence of an operational quality assurance program pursuant to section 62D.04 and information about utilization.

Persons who become eligible for medical assistance after July 1, 1984, who are not participating in any Medicaid demonstration project as defined under sections 256B.70 and 256B.71, and who choose at the time of application for assistance to receive services from a health maintenance organization, shall be guaranteed six months of coverage by a state contracted health maintenance organization if the recipient remains in the health maintenance organization from the time of initial enrollment. The continued eligibility guarantee shall not be granted when ineligibility for medical assistance is due to death, loss of state or county residency, failure to respond to the county's efforts to contact the recipient, failure to locate the recipient, or when the recipient is eligible for continued eligibility as defined in section 256B.062.

Sec. 32. Minnesota Statutes 1984, section 256B.501, subdivision 8, is amended to read:

Subd. 8. [PAYMENT FOR PERSONS WITH SPECIAL NEEDS.] The commissioner shall establish by December 31, 1983, procedures to be followed by the counties to seek authorization from the commissioner for medical assistance reimbursement for ~~waivered services or~~ training and habilitation services for very dependent persons with special needs in an amount in excess of the rates allowed pursuant to subdivisions 2, 4, 5, and 6, and procedures to be followed for rate limitation exemptions for intermediate care facilities for mentally retarded persons. No excess payment or limitation

exemption shall be authorized unless the need for the service is documented in the individual service plan of the person or persons to be served, the type and duration of the services needed are stated, and there is a basis for estimated cost of the services. *Payments made under this subdivision are limited to very dependent persons with special needs who otherwise would be placed or retained in a state hospital. The total payment for residential and day training and habilitation services for a very dependent person with special needs must not exceed the payment for providing services in a state hospital except in cases where the payment for residential services exceeds 85 percent of the payment for state hospital services. In this case, the total payment for residential and day training and habilitation services for a very dependent person with special needs must not exceed 115 percent of the payment for state hospital services, and only day training and habilitation providers are eligible to receive additional funds made available under this exception.*

The commissioner shall evaluate the services provided pursuant to this subdivision through program and fiscal ~~audits~~ reviews.

Sec. 33. Minnesota Statutes 1984, section 256B.70, is amended to read:

256B.70 [DEMONSTRATION PROJECT WAIVER.]

Each hospital that participates as a provider in a demonstration project, established by the commissioner of human services to deliver medical assistance, *or chemical dependency* services on a prepaid, capitation basis, is exempt from the prospective payment system for inpatient hospital service during the period of its participation in that project.

Sec. 34. Minnesota Statutes 1984, section 256D.03, subdivision 4, is amended to read:

Subd. 4. [GENERAL ASSISTANCE MEDICAL CARE; SERVICES.]

(a) Reimbursement under the general assistance medical care program shall be limited to the following categories of service: inpatient hospital care, outpatient hospital care, services provided by medicare certified rehabilitation agencies, prescription drugs, equipment necessary to administer insulin and diagnostic supplies and equipment for diabetics to monitor blood sugar level, eyeglasses and eye examinations provided by a physician or optometrist, hearing aids, prosthetic devices, laboratory and x-ray services, physician's services, medical transportation, and dental care. In addition, payments of state aid shall be made for day treatment services provided by a mental health center established under sections 245.61 to 245.69, subdivision 1, and funded through chapter 256E and for prescribed medications for persons who have been diagnosed as mentally ill as necessary to prevent more restrictive institutionalization.

(b) In order to contain costs, the county board shall, with the approval of the commissioner of human services, select vendors of medical care who can provide the most economical care consistent with high medical standards and may contract with organizations on a prepaid capitation basis to provide these services. The commissioner shall encourage county boards to submit proposals for demonstration projects designed to provide services in an economical manner or to control utilization, with safeguards to ensure that necessary services are provided. Payment for services provided pursuant to this

subdivision shall be as provided to medical assistance vendors of these services under section 256B.02, subdivision 8, except that where counties enter into prepaid capitation agreements, payments shall be as provided in section 256.966, subdivision 2.

(c) The commissioner of human services may reduce payments provided under sections 256D.01 to 256D.21 and 261.23 in order to remain within the amount appropriated for general assistance medical care, within the following restrictions. For the period July 1, 1983 to June 30, 1984, reductions below the cost per service unit allowable under section 256.966, are permitted only as follows: payments for inpatient and outpatient hospital care provided in response to a primary diagnosis of chemical dependency or mental illness may be reduced no more than 45 percent; payments for all other inpatient hospital care may be reduced no more than 35 percent. Reductions below the payments allowable under section 256.967 for the remaining general assistance medical care services allowable under this subdivision may be reduced no more than 25 percent. For the period July 1, 1984 to June 30, 1985, reductions below the cost per service unit allowable under section 256.966 are permitted only as follows: payments for inpatient and outpatient hospital care provided in response to a primary diagnosis of chemical dependency or mental illness may be reduced no more than 30 percent; payments for all other inpatient hospital care may be reduced no more than 20 percent. Reductions below the payments allowable under section 256.967 for the remaining general assistance medical care services allowable under this subdivision may be reduced no more than ten percent. There shall be no copayment required of any recipient of benefits for any services provided under this subdivision. A hospital receiving a reduced payment as a result of this section may apply the unpaid balance toward satisfaction of the hospital's bad debts.

(d) Any county may, from its own resources, provide medical payments for which state payments are not made.

(e) Chemical dependency services, except primary diagnosis of chemical dependency in paragraphs (b) and (c), must not be reimbursed under general assistance medical care. Reimbursement must be under sections 254B.01 to 254B.09.

Sec. 35. [256D.44] [CITATION.]

Sections 256D.45 to 256D.71 may be cited as the Minnesota supplemental aid act.

Sec. 36. [256D.45] [POLICY.]

The purpose of sections 256D.45 to 256D.71 is to provide a sound administrative structure for public assistance programs; to maximize the use of federal money for public assistance purposes; and to provide an integrated public assistance program for all residents who are recipients of supplemental security income; who, except for excess income or resources, would be receiving supplemental security income and have maintenance needs as determined by the application of state standards of assistance, or who have need of a clothing and personal needs allowance while residing in a state hospital, nursing home, or facility with a negotiated rate.

Sec. 37. [256D.46] [DEFINITIONS.]

Subdivision 1. [APPLICABILITY.] Definitions in this section apply to sections 256D.45 to 256D.71.

Subd. 2. [AGED.] "Aged" means a person who is or will become age 65 or older during the month of application.

Subd. 3. [APPLICANT.] "Applicant" means a person who has filed a Minnesota supplemental aid application or for whom an application has been filed and whose application has not been acted upon or voluntarily withdrawn.

Subd. 4. [BLIND.] "Blind" means the condition of a person:

(1) who has no vision;

(2) whose vision, with glasses or other devices, is 20/200 or less in the better eye using the Standard Snellen Chart and whose vision cannot be remedied or improved;

(3) whose vision in the better eye is more than 20/200 but is accompanied by a contraction of the peripheral field to the extent that the widest diameter of the visual field subtends an angular distance no greater than 20 degrees; or

(4) who have an aphacic eye with a vision of 20/70 in the better eye.

Subd. 5. [COMMISSIONER.] "Commissioner" means the commissioner of human services.

Subd. 6. [COUNTABLE INCOME.] "Countable income" means net earned and unearned income that is not exempt, excluded, or disregarded under section 256D.55 and is available to the recipient.

Subd. 7. [DEPARTMENT.] "Department" means the department of human services.

Subd. 8. [DISABILITY.] "Disability" means the inability to engage in a self-supporting occupation because of a permanent and total physical or mental impairment.

Subd. 9. [EARNED INCOME.] "Earned income" means wages, salary, commission, or benefits received by a person as monetary compensation from employment or self-employment.

Subd. 10. [EMERGENCY.] "Emergency" means circumstances that involve a lack or loss of a maintenance need, that demand immediate action, and that, if unresolved, will threaten the health or safety of the individual.

Subd. 11. [EXCLUDED TIME FACILITY.] "Excluded time facility" means any facility listed in section 256B.02, subdivision 2.

Subd. 12. [GROSS INCOME.] "Gross income" means all earned and unearned income before any deduction, disregard, or exclusion.

Subd. 13. [HOMESTEAD.] "Homestead" means a house owned and occupied by the applicant or recipient as his or her dwelling place and with the land upon which it is situated. The land area may not be greater than two contiguous lots in a platted or laid out city or town or 80 contiguous acres in areas that are rural in nature. The value of real estate not used as a home must be counted under section 256D.54, subdivision 2, unless it produces countable income applicable to the family's needs, the family is making a contin-

uing effort to sell the property at a fair and reasonable price, sale of the real estate would not result in countable income equal to or exceeding the family's monthly needs, or sale of the real estate would cause undue hardship.

Subd. 14. [INCOME.] "Income" means any benefit with a cash value received by and available to an applicant or recipient as earnings or otherwise.

Subd. 15. [LOCAL AGENCY.] "Local agency" means the agency designated to administer public assistance programs by the county board of commissioners, human services board, county welfare board, or multi-county welfare board or department.

Subd. 16. [NEGOTIATED RATE FACILITY.] "Negotiated rate facility" means a facility, other than a nursing home, for which the local or state agency determines per diem or monthly standards of payment.

Subd. 17. [OTHER MAINTENANCE BENEFITS.] "Other maintenance benefits" means maintenance benefits provided under law or rule as workers' compensation, unemployment compensation, railroad retirement benefits, veteran's disability benefits, supplemental security income, social security disability insurance, or other maintenance benefits identified by the local agency for which the applicant or recipient is potentially eligible.

Subd. 18. [PERMANENT.] "Permanent", in reference to a disability or impairment, means that the disability or impairment will persist throughout a person's life.

Subd. 19. [REAL PROPERTY.] "Real property" means land, and all buildings, structures, and improvements or other fixtures on it, all rights and privileges belonging or appertaining to it, all manufactured homes attached to it on permanent foundations and all mines, minerals, quarries, fossils, and trees on or under it.

Subd. 20. [RECIPIENT.] "Recipient" means a person who is receiving assistance under the Minnesota supplemental aid program, including a person who receives and cashes the monthly payment check and is subsequently determined ineligible for assistance for that period of time, whether or not the assistance is repaid; but excluding a person who returns an uncashed monthly payment and withdraws from the program.

Subd. 21. [SUPPLEMENTAL SECURITY INCOME.] "Supplemental security income" means benefits paid under the supplemental security income program for the aged, blind, and disabled under Title XVI of the Social Security Act, as enacted by section 301 of the Social Security Amendments of 1972.

Subd. 22. [TOTAL.] "Total" relates to the degree of the disability. Totality involves consideration of age, training, skills, and work experience.

Subd. 23. [UNDUE HARDSHIP.] "Undue hardship" means a situation when Minnesota supplemental aid eligibility is prevented because the applicant or recipient owns more property than the limit in section 256D.54 and the property is for sale at a reasonable price but has not been sold; or the property is essential to the applicant or recipient for other reasons as determined by the local agency.

Subd. 24. [UNEARNED INCOME.] "Unearned income" means any in-

come received by the applicant or recipient that does not directly result from that person's services or labor.

Sec. 38. [256D.47] [CLIENT RIGHTS AND RESPONSIBILITIES.]

Subdivision 1. [INFORMATION.] The local agency shall provide, to each person inquiring about Minnesota supplemental aid, any information germane to a determination of eligibility.

Subd. 2. [ELIGIBILITY AND PROGRAM REQUIREMENTS.] Upon receiving a request for assistance, the local agency shall promptly advise the inquirer, applicant, or recipient of the eligibility criteria or other program information that bears upon eligibility or monthly payment amounts. The local agency shall offer informational brochures to prospective applicants, and shall inform them that eligibility cannot be officially determined and the right to appeal the agency's decision does not exist unless a formal application is made.

Subd. 3. [INFORMATION ABOUT OTHER PROGRAMS.] The local agency shall inform applicants and recipients of the availability of other programs that, based on the agency's knowledge of the person's situation, could be of interest to the applicant or recipient.

Subd. 4. [RIGHT TO APPLY.] A person who inquires about the program must be informed by the local agency of the right to apply and the manner in which formal application can be made.

Subd. 5. [RIGHT TO NOTICE AND AN OPPORTUNITY TO BE HEARD.] A grant of Minnesota supplemental aid, except emergency assistance under section 256D.59, must not be reduced, terminated, or suspended unless the recipient is given notice and an opportunity to be heard before action by the local agency. A recipient has a right to full administrative and judicial review of an order or determination of a local agency as provided for in section 256.045 after an action taken by a local agency after a hearing.

Subd. 6. [RIGHT TO REPRESENTATION.] Applicants and recipients have the right to have someone act in their behalf to ensure that their legal, civil, and human rights are upheld, and to have someone assist or represent them in the application, eligibility review, or fair hearing process, and in any other contacts with the local or state agency. An applicant or recipient who wishes to designate a representative may do so by providing a written statement of this intent to the local agency.

Subd. 7. [RIGHT TO REVIEW RECORDS.] An applicant or recipient may review the records of the local agency related to the applicant's or recipient's eligibility for or the amount of benefits received under Minnesota supplemental aid, except records classified as confidential under the Minnesota government data practices act.

Subd. 8. [CLIENT RESPONSIBILITIES.] An applicant or recipient who is otherwise eligible for Minnesota supplemental aid and may be eligible for maintenance benefits from another source shall:

(1) apply for benefits from other sources within 30 days of the local agency's determination that the applicant or recipient may be eligible for the benefits; and

(2) execute an interim assistance authorization agreement on a form pre-

scribed by the commissioner.

If a person is found to be eligible for benefits from other sources and a payment received from another source relates to the period for which Minnesota supplemental aid was received, the recipient shall reimburse the local agency for the interim assistance paid, including emergency assistance. Reimbursement must not exceed the amount of Minnesota supplemental aid paid during the time period for which the other maintenance benefits were received. Local agencies may retain, from the amount recovered under an interim assistance agreement, 25 percent plus actual reasonable fees, costs, and disbursements of appeals and litigation; of providing advocacy assistance to the recipient to facilitate the recipient's claim for maintenance benefits from another source, under rules adopted by the commissioner. The money retained under this section must be from the state share of the recovery. The local agency may contract with qualified persons to provide advocacy assistance. Rules adopted by the commissioner must include the methods by which local agencies shall identify, refer, and assist recipients who may be eligible for benefits under federal programs for the disabled.

Sec. 39. [256D.48] [RESIDENCE.]

To be eligible for Minnesota supplemental aid a person must be a resident of Minnesota. Minnesota residence is not lost unless the person intends to lose Minnesota residence and establish residence elsewhere. If a Minnesota supplemental aid recipient moves out of Minnesota with the intent to establish a home elsewhere, Minnesota supplemental aid must be terminated immediately, subject to the timely notice requirements of section 256D.63. If a former recipient returns to Minnesota after establishing residence in another state and Minnesota supplemental aid monthly payments have been discontinued, the county of financial responsibility is the county of residence after returning. United States citizenship or permanent residence status is not a requirement for eligibility.

Sec. 40. [256D.49] [RESPONSIBILITY TO PROVIDE MINNESOTA SUPPLEMENTAL AID.]

Each local agency shall provide Minnesota supplemental aid to persons residing within its jurisdiction who meet the eligibility requirements of sections 256D.54 and 256D.55. The Minnesota supplemental aid program must be administered by the local agency according to law and rules adopted by the commissioner under the administrative procedure act.

Sec. 41. [256D.50] [APPLICATION FOR ASSISTANCE.]

Subdivision 1. [FILING OF APPLICATION.] The local agency shall allow a person requesting Minnesota supplemental aid to apply for assistance on the date assistance is first requested. The application must be in writing on the form prescribed by the commissioner. The application must contain the following declaration, signed by the applicant or the applicant's authorized representative: "I declare that I have examined this application and it is a true and correct statement of every material point." On the date Minnesota supplemental aid is first requested, the local agency must inquire and determine whether the person requesting assistance is in immediate need of food, shelter, clothing, assistance for necessary transportation, or other emergency assistance under section 256D.59. A person in need of emergency assistance

must be granted this assistance immediately upon determination of need, and necessary assistance must continue until the first grant of Minnesota supplemental aid is paid to the person or the person is determined to be ineligible. A determination of an applicant's eligibility for Minnesota supplemental aid must be made by the local agency as soon as the required verifications are received by the local agency but no later than the time required by section 256D.52. Verifications required of the applicant must be reasonable. Minnesota supplemental aid must be granted to an applicant upon a determination that the applicant is eligible and may not be delayed in order to obtain action by the board of the local agency. The amount of the first grant of Minnesota supplemental aid awarded to an applicant must be computed to cover the time period beginning on the first day of the month in which the application was filed, or the first day of the month in which all eligibility factors were met, whichever is later.

Sec. 42. [256D.51] [VERIFICATION.]

The local agency must verify information provided by the applicant or recipient regarding the applicant's or recipient's identity; social security number; categorical basis for eligibility; income, including the income of persons for whom the applicant or recipient is a responsible relative or who is a responsible relative for the applicant or recipient; and other relevant factors; if the local agency has reason to question the accuracy of information provided by the applicant or recipient. If the applicant or recipient refuses to cooperate with the local agency in its attempt to verify the information, the local agency shall deny or terminate assistance.

Sec. 43. [256D.52] [DISPOSAL OF APPLICATION BY THE AGENCY.]

When an application is received, the local agency must promptly determine if the applicant is eligible for assistance, formally act to approve or deny the application, inform the applicant of its decision, and issue assistance if the applicant is found eligible. If the local agency is unable to determine the applicant's eligibility or ineligibility within 30 days, or within 60 days if the basis of eligibility is disability, it shall inform the applicant, in writing, of the reason.

Sec. 44. [256D.53] [RESIDENCE; COUNTY OF FINANCIAL RESPONSIBILITY.]

The applicant shall apply for Minnesota supplemental aid in the county where the applicant is living at the time of application. County of financial responsibility is the same as that prescribed in section 256B.02, subdivision 3. If the applicant resides in an excluded time facility, the county of financial responsibility is the county in which the applicant resided immediately before beginning uninterrupted excluded time residence. If upon investigation the local agency decides that the application was not filed in the county of financial responsibility and that the applicant is otherwise eligible for assistance, the local agency must provide assistance to the applicant and transmit a copy of the application, the record of any investigation made, and a copy of its decision to the state agency and to the county determined to be the county of financial responsibility. The state agency shall promptly determine county financial responsibility and order that the application be referred to the responsible county for further action. The responsible county must reimburse a

county for any assistance the county provided to the applicant under this section. The order of the state agency is binding upon the county of financial responsibility and the applicant or recipient unless reversed on appeal as provided in section 256.045. The order must be complied with pending an appeal.

Sec. 45. [256D.54] [ELIGIBILITY CRITERIA.]

Subdivision 1. [ENTITLED TO RECEIVE AID.] A person who is a resident of Minnesota; who is aged, blind, or disabled; and whose income and resources are less than the standard of assistance and limits that apply to the person; is eligible for and entitled to Minnesota supplemental aid. Persons who are found eligible for supplemental security income by the social security administration on the basis of age, blindness, or disability have met the requirements.

Subd. 2. [RESOURCES.] To be eligible for Minnesota supplemental aid, the applicant or recipient must not own or have an interest in personal property that exceeds the limits of the supplemental security income program.

Subd. 3. [EXCLUDED RESOURCES.] A local agency must exclude from a determination of the value of the resources of an applicant or recipient one motor vehicle; proceeds from reverse mortgages; a homestead or mobile home used as a home; and other property, goods, items, and materials necessary for day-to-day living.

Subd. 4. [JOINTLY HELD PROPERTY.] When real or personal property is held jointly by two or more persons, the local agency shall assume that each person owns an equal share unless the local agency or any of the owners of the property demonstrate that the share is greater or less. When a greater or lesser share is demonstrated, the local agency shall use the demonstrated share to determine the value of the property interest held by the applicant or recipient. The owner of property as a tenant-in-common owns a pro rata share of the property's value. Other types of ownership must be evaluated according to law. Jointly owned property is considered available unless the owner does not have the legal capacity to liquidate the property without the signature of the other owners. The applicant must provide information to the local agency to assist it in determining whether the property is available. If the property is unavailable, the applicant must, as a condition of continued eligibility, take reasonable actions requested by the local agency to make the property available.

Subd. 5. [TRANSFERS OF PROPERTY.] In determining the resources of an individual and an eligible spouse, the local agency shall include resource or interest exceeding the limits in subdivisions 2 and 3 that was given away or sold for less than fair market value within the 12 months preceding application for Minnesota supplemental aid or during the period of eligibility must be included in a determination of the resources of an applicant or recipient and the applicant's or recipient's spouse. A transfer for less than value as described in this subdivision must be presumed to have been made in order to establish eligibility for benefits or assistance for Minnesota supplemental aid unless the applicant, recipient, or spouse furnishes convincing evidence that the transaction was exclusively for another purpose. For purposes of this subdivision, the value of a resource or interest is the fair market value at the time it was sold or given away, less the amount of compensation received. If

the value of the transferred property exceeds the monthly standard of assistance that applies to the applicant or recipient, the applicant or recipient is ineligible for Minnesota supplemental aid. The number of months of ineligibility is determined by dividing the uncompensated value of the transferred property by the monthly standard of assistance that applies to the applicant or recipient.

Subd. 6. [BUILT-UP OF ASSETS.] A recipient who does not have allowable cash assets at the time of application may create or accumulate assets up to the maximum, provided that all of the recipient's income has been reported and fully accounted for in determining the recipient's need or the amount of assistance.

Subd. 7. [RIGHT TO REDUCE EXCESS PROPERTY OR RESOURCES.] The local agency shall allow a recipient who has property or resources in excess of the standards of the Minnesota supplemental aid program to reduce the value of property by transferring the excess to a type of property that does not exceed limits, using the excess to meet all needs for a period up to three months, or in any other way that does not result in a reduction of available resources without adequate compensation. If a recipient has property that exceeds standards, eligibility must continue if the recipient reports the property and takes steps to reduce the property within 15 days of notice by the agency. If a recipient fails to reduce excess property or resources as allowed in this subdivision, the recipient's eligibility is terminated.

Subd. 8. [CONVERSION OF PROPERTY.] When a client's real or personal property, including excluded property, has been sold and converted to cash, the cash is a resource except that proceeds from the sale of a home-stead may be held for up to 90 days in an escrow account when the proceeds are to be used for the purchase of another home.

Subd. 9. [WAIVER OF EXCESS PROPERTY.] The local agency shall waive real and nonliquid personal property exceeding the limits of subdivisions 2 and 3 if the local agency determines that:

(1) the property produces a reasonable market return and is being used to support the applicant or recipient;

(2) a grant of emergency assistance under the Minnesota supplemental aid program is required and the property cannot be liquidated in time to meet the need; or

(3) forcing the applicant or recipient to dispose of the property would create an undue hardship for the applicant or recipient.

Sec. 46. [256D.55] [INCOME.]

Subdivision 1. [SUBTRACTION.] All of an applicant's or recipient's available and countable earned and unearned income must be subtracted from the applicable standard of assistance to determine eligibility and monthly payment amounts. Income must be considered income in the month of receipt and a resource thereafter.

Subd. 2. [INCOME EXCLUSIONS.] Countable income does not include: food stamps; home-produced food used by the household; Indian claim payments made by the United States Congress to compensate members of Indian

tribes for the taking of tribal lands by the federal government; cash payments to displaced persons who face relocation as a result of the Housing Act of 1965, the Housing and Urban Development Act of 1965, or the Uniform Relocation Act of 1970; displaced homemaker payments; reimbursement received for maintenance costs of providing foster care to adults or children; benefits under title IV and title VII of the Older Americans Act of 1965; Minnesota renter or homeowner property tax refunds; infrequent, inconsequential gifts of money that total no more than \$30 in a month; reimbursement payments received from the VISTA program; all reverse mortgage loan proceeds received including interest or earnings; in-kind income; payments received for providing volunteer services under title I, title II, and title III of the Domestic Service Act of 1973; loans that must be repaid; federal low income heating assistance program payments; and any other money excluded as income by state law.

Subd. 3. [SELF SUPPORT PLANS.] *The county agency shall disregard, for up to 36 months, the additional amounts of other income and resources as necessary to fulfill an individual's plan for achieving self-support approved by the state agency, but only when the individual is undergoing vocational rehabilitation.*

Subd. 4. [APPLICATION FOR FEDERALLY FUNDED BENEFITS.] *Persons for whom the applicant or recipient has financial responsibility and who have unmet needs must apply for and if eligible accept AFDC and other federally funded benefits before allocation of earned and unearned income from the applicant or recipient to meet their needs. If the persons are determined eligible for these benefits, the earned or unearned income of the applicant or recipient must not be allocated to them.*

Subd. 5. [ALLOCATION OF INCOME.] *To determine the eligibility of and the monthly payment for an applicant or recipient, countable earned and unearned income may first be allocated, subject to the conditions in subdivision 4, to cover the unmet needs of persons for whom the applicant or recipient has financial responsibility who share a residence with the applicant or recipient, at the rate for each of one-half the individual supplemental security income standard of assistance. If the applicant or recipient shares a residence with another person who is financially responsible for the applicant or recipient, the income of the responsible relative must be considered available to the applicant or recipient after allowing for:*

(1) *the disregards and deductions in subdivisions 6, 7, 8, and 9 of this section;*

(2) *the amount of actual payments made to individuals who reside outside of the home who are or could be claimed as dependents for income tax purposes; and*

(3) *an amount equal to one-half of the individual supplemental security income standard of assistance for each additional person who resides in the home and for whom the responsible relative is financially responsible.*

Subd. 6. [EARNED INCOME DISREGARDS.] *The local agency shall disregard the first \$85, plus one-half of the remainder, of the applicant's or recipient's gross earned income.*

Subd. 7. [EARNED INCOME DEDUCTIONS.] *The local agency shall*

subtract the following work expenses from the applicant's or recipient's gross earned income; transportation costs at the rate of 22 cents per mile or actual cost; meal allowances at the rate of \$3 per work day; amounts paid for uniforms required for work, tools, and equipment; health and other insurance payments required by the employer; union and professional association dues paid; mandatory retirement fund contributions; FICA and supplementary medical insurance costs; state and federal income taxes; child care; and other reasonable expenses necessary for work.

Subd. 8. [SELF-EMPLOYMENT EARNINGS.] Gross earned income from self-employment is the amount remaining after reasonable, necessary business costs are subtracted from gross receipts. Capital expenditures and depreciation must not be allowed as business costs. Material stocks and goods used in producing income, inventory if it is a part of the operating stock, and loans received for business purposes must not be considered in the determining gross earned income of the applicant or recipient.

(a) Income from rental property is self-employment earnings for each month labor is expended by the owner of the property. Actual, reasonable costs of upkeep and repairs, real estate taxes, insurance, utilities, and the interest on principal payments, are business expenses. If the applicant or recipient lives on the property, these expenses must be apportioned according to the number of rooms rented against the number occupied by the assistance unit. When no labor is expended, income from rental property is unearned income except that a deduction must be allowed for actual, reasonable, and necessary labor costs for upkeep and repair.

(b) To determine net income available for support from farm operations, the local agency must deduct operating expenses from gross receipts. Farm income includes all proceeds from sales of livestock, livestock products or crops sold or held for later disposition and income from land rented on a share or cash basis; and soil conservation payments. Operating expenses include costs of raising crops and animals, machinery repairs, hired labor, rent, and property costs. Capital expenditures and depreciation are not allowable business costs. A loss from farming operations must not be deducted from other income such as wages or other self-employment enterprises.

(c) To determine net income from room and board income, monthly expenses of \$84 must be deducted from gross income for each boarder and \$69 for each roomer.

Subd. 9. [UNEARNED INCOME DISREGARD.] The local agency shall disregard \$20 of an applicant's or recipient's income from the retirement, survivors and disability insurance program. All other unearned income is available to meet the needs of the applicants and recipients and must be deducted from the standard of need. Unearned income includes but is not limited to pension and retirement benefits, income from trusts, and military service person's contributions. The \$20 disregard is not allowed for persons residing independently.

Subd. 10. [LUMP SUMS.] Lump sum payments and windfalls are income in the month received and a resource thereafter.

Sec. 47. [256D.56] [STANDARDS OF ASSISTANCE.]

Subdivision 1. [USE OF STANDARDS; INCREASES.] The state stan-

dards of assistance for shelter, basic needs, and special need items establish the total amount of maintenance need of an applicant for or recipient of Minnesota supplemental aid. The standards must be used to determine the applicant's or recipient's eligibility for Minnesota supplemental aid, the minimum monthly payment amount, and the amount of state aid for payments. The state standards of assistance must be increased by an amount equal to the dollar value of any cost of living increases in the supplemental security income program, except that the commissioner may take other action as necessary from an examination of current expenditures under Minnesota supplemental aid to prevent loss of federal funds as provided in Public Law Number 94-585. If this authority is invoked, the commissioner shall report to the Minnesota legislature regarding the circumstances and need for the action.

Subd. 2. [STANDARD OF ASSISTANCE FOR SHELTER.] *The state standard of assistance for shelter provides for the recipient's needs for shelter, heating, cooking, electrical, water, sewer, and garbage removal. Except as allowed in section 256D.57, the monthly state standard of assistance for shelter must be determined as provided in this subdivision.*

(a) *If the recipient does not reside with a spouse who receives Minnesota supplemental aid, the state standard of assistance for shelter is the actual cost for shelter or \$151, whichever is less.*

(b) *If the recipient resides with a spouse who receives Minnesota supplemental aid, the state standard of assistance for shelter for the married couple is the actual cost for shelter or \$227, whichever is less.*

(c) *The actual shelter cost for married and unmarried recipients who share a residence must be determined by dividing the sum of the total monthly shelter cost for the residence by the number of persons who share the residence, unless the recipient can justify a greater or lesser share.*

Subd. 3. [STANDARD OF ASSISTANCE FOR BASIC NEEDS.] *The state standard of assistance for basic needs provides for the needs of the recipient for food, clothing and personal needs, reading material, laundry, household supply items, transportation, and other personal needs. Except as allowed in section 256D.57, the monthly state standard of assistance for basic needs must be determined as provided in this subdivision.*

(a) *For an individual who does not share a residence with another person, the state assistance standard is \$234.*

(b) *For an individual who shares a residence with another person or persons the state assistance standard is \$184.*

Subd. 4. [STANDARD OF ASSISTANCE FOR A RECIPIENT RESIDING IN A STATE HOSPITAL OR DWELLING WITH A NEGOTIATED RATE.] *When a recipient is a resident of a state hospital or a dwelling with a negotiated rate, the recipient is not eligible for a shelter standard or a basic needs standard under subdivisions 2 and 3. The recipient resident of a negotiated rate facility is eligible for a separate special needs allowance under subdivision 6. The special needs allowance must be included in the negotiated rate. Except as allowed in section 256D.57, the state standard of assistance for those recipients is the clothing and personal needs allowance that has been established for medical assistance recipients under section*

256B.35.

Subd. 5. [NEGOTIATED RATES.] Minnesota supplemental aid may be paid to negotiated rate facilities at the rates in effect on March 1, 1985, for services provided under the supplemental aid program to residents of the facility, up to the maximum negotiated rate specified in this section. Except as allowed under section 256D.57, the rate for room and board or a licensed facility must not exceed \$800. The maximum negotiated rate does not apply to a facility described in section 256B.431, subdivision 4, paragraph (b). The rates may be paid for persons who are placed by the local agency or who elect to reside in a room and board facility or a licensed facility for the purpose of receiving physical, mental health, or rehabilitative care, provided the local agency agrees that this care is needed by the person. When Minnesota supplemental aid is used to pay a negotiated rate, the rate payable to the facility must not exceed the rate paid by an individual not receiving Minnesota supplemental aid. To receive payment for a negotiated rate, the dwelling must comply with applicable laws and rules establishing standards necessary for health, safety, and licensure. The negotiated rate must be adjusted by the annual percentage change in the urban consumer price index (CPI-U) for Minneapolis-St. Paul as published by the Bureau of Labor Statistics between the previous two Octobers, new series index (1967-100).

Subd. 6. [SPECIAL NEEDS.] Notwithstanding subdivisions 1, 2, 3, and 4, payments must be allowed for the special needs of recipients as provided in this subdivision.

(a) Medically prescribed diets. The local agency shall pay a monthly allowance for medically prescribed diets when they are prescribed by a physician if the cost of the additional dietary needs is not met through another program. Following the initial determination of need for the special diet, eligibility for continuing payments must be reviewed no less frequently than at the time of each redetermination of eligibility. Verification of actual expenditures for additional dietary need items must not be required. The amount of this supplementary payment must be determined according to the thrifty food plan for one person established by the Food and Nutrition Service of the United States Department of Agriculture. Except as allowed in section 256D.57, payment must be determined for the following special diets at the levels indicated, except that the commissioner may provide for additional dietary need upon nutritional documentation:

- | | |
|--|----------------------------------|
| (1) High protein diet
(at least 80 grams daily) | 25 percent of thrifty food plan |
| (2) Controlled protein diet
(40-60 grams and requires special products such as Controlyte, Paygel, Aprotin, Cal-Power, and Citroetin) | 100 percent of thrifty food plan |
| (3) Controlled protein diet
(less than 40 grams and requires special products described in in clause (2) above) | 125 percent of thrifty food plan |
| (4) Low cholesterol diet | 25 percent of thrifty food plan |
| (5) High residue diet | 20 percent of thrifty food plan |
| (6) Pregnancy & lactation diet | 35 percent of thrifty food plan |
| (7) Gluten free diet | 25 percent of thrifty food plan |
| (8) Lactose free diet | 25 percent of thrifty food plan |

- (9) Anti-dumping diet 15 percent of thrifty food plan
- (10) Hypoglycemic diet 15 percent of thrifty food plan
- (11) Ketogenic diet 25 percent of thrifty food plan

(b) Payment for nonrecurring special needs must be allowed for necessary repairs or replacement of household furniture and appliances.

(c) Except in an emergency, the recipient shall obtain prior authorization for special need items to be paid by the local agency. The local welfare board shall designate a person or persons authorized to approve repairs and replacements prior to formal board action.

Sec. 48. [256D.57] [LOCAL AGENCY STANDARDS OF ASSISTANCE.]

The local agency may establish standards of assistance for shelter, basic needs, special needs, clothing and personal needs, and negotiated rates in excess of the state standards of assistance. State aid is not available for the excess costs of higher local agency standards.

Sec. 49. [256D.58] [MONTHLY PAYMENT AMOUNTS.]

Subdivision 1. [PAYMENT PERIOD.] The payment period for Minnesota supplemental aid is a calendar month. The monthly payment to a recipient must be determined under this section.

Subd. 2. [PROSPECTIVE BUDGETING.] During the first two months of applicant eligibility and during a month in which a change of at least \$50 has occurred and the following month, the local agency shall subtract the amount of countable income anticipated for the payment period from the following state standards of assistance applicable to the applicant or recipient during that payment period:

- (a) shelter and basic needs; or
- (b) clothing and personal needs; or
- (c) higher local agency standards established under section 17.

In the event that the amount of anticipated income is less than the amount of income actually received during the payment period, the local agency shall issue a supplemental payment for the difference.

Subd. 3. [RETROSPECTIVE BUDGETING.] Following the first two months of payment eligibility determined by provisions of subdivision 2, the local agency shall subtract the amount of countable income actually received during the payment period two months earlier from the following state standards of assistance applicable to the recipient during the current payment period:

- (a) shelter and basic needs; or
- (b) clothing and personal needs; or
- (c) higher local agency standards established under section 256D.57.

In the event that the amount of income actually received for the current payment period is less than the amount of income received during the payment period two months earlier, the local agency shall issue a supplemental

payment for the difference. If the amount of income actually received for the current payment period exceeds the amount of income received for the payment period two months earlier, the recipient shall be considered overpaid. When the local agency is informed that income will no longer be received from a particular source, the local agency shall initiate a two-month prospective budgeting period under subdivision 2.

Subd. 4. [MONTHLY PAYMENT AMOUNT; PERSON RESIDING INDEPENDENTLY.] The monthly payment for a recipient who resides independently is the difference between the countable income and the applicable standards of assistance determined under subdivisions 2 and 3.

Subd. 5. [MONTHLY PAYMENT AMOUNT; PERSON RESIDING IN STATE HOSPITAL OR DWELLING WITH NEGOTIATED RATE.] The monthly payment for a recipient who resides in a state hospital or a dwelling with a negotiated rate is the difference between the countable income and the sum of the standard of assistance determined under subdivision 2 or 3 and the negotiated rate, if any.

Sec. 50. [256D.59] [EMERGENCY ASSISTANCE.]

Subdivision 1. [ELIGIBILITY FOR EMERGENCY ASSISTANCE.] Emergency assistance is available if the applicant or recipient has income and resources less than the limits of sections 256D.54 and 256D.55 and an emergency exists which, if not resolved, will threaten the health or safety of an applicant or recipient. To be eligible for emergency assistance, the applicant or recipient must be without resources adequate to resolve the situation.

Subd. 2. [INCOME AND RESOURCE TEST.] All income and resources available to the applicant or recipient during the month that the need for emergency assistance arose must be considered in determining the applicant's or recipient's ability to meet the emergency need. Liquid personal property and income normally disregarded or excluded under the Minnesota supplemental assistance program must be considered available to meet the emergency need.

Subd. 3. [USE OF EMERGENCY ASSISTANCE.] Emergency assistance may be granted to an applicant or recipient:

- (1) whose Minnesota supplemental aid grant money was lost or stolen;
- (2) who lacks food or shelter;
- (3) who has received a notice of eviction;
- (4) who has received a residential utility shut-off notice;
- (5) who requires a damage deposit, utility connection charge, moving expenses, or other expenses related to establishing a new residence; or
- (6) who requires assistance for necessary home repairs.

Subd. 4. [PAYMENT AMOUNT.] The amount of assistance granted under Minnesota supplemental aid emergency assistance must be based on the current Minnesota supplemental aid need standards. If the standards are insufficient to meet the emergency need, the Minnesota supplemental aid emergency assistance payment must be based on the amount necessary to resolve the emergency.

Subd. 5. [RELATIONSHIP TO REGULAR MONTHLY PAYMENTS.] When a portion of the Minnesota supplemental aid emergency assistance grant is issued to a Minnesota supplemental aid recipient for current needs, the amount of the Minnesota supplemental aid emergency assistance intended to cover current needs must be subtracted from the amount of the regular Minnesota supplemental aid grant issued for the same time period. However, if a regular grant has already been issued for the same period in which the emergency arises, the local agency shall not deduct the amount issued from a grant for a subsequent month.

Subd. 6. [LOST OR STOLEN MONEY.] Minnesota supplemental aid emergency assistance is available when a significant portion of the proceeds of the monthly Minnesota supplemental aid check is lost or stolen and the recipient is without funds to pay for food, shelter, or utilities for the remainder of the month. Only lost money from the Minnesota supplemental aid assistance check may be replaced. Loss by theft must have been reported to law enforcement officials. A written report of the event must be submitted to the local agency by the recipient in the form of an affidavit. The contents of the law enforcement report and the recipient's affidavit must be reasonably consistent as to the amount lost and the circumstances surrounding the loss. If an assistance check is lost, stolen, or destroyed, a duplicate check shall be issued if the recipient files an affidavit with the county agency attesting to the loss, theft, or destruction of the original. The duplicate check must correspond in number, date, and amount with the original check and must have endorsed on its face the term "duplicate."

Subd. 7. [PROTECTIVE PAYMENTS TO AVOID RECURRING NEED.] If emergency assistance payments are made more than once during a 12-month period, protective payment of regular Minnesota supplemental aid benefits may be implemented. If the person receives benefits from the Social Security Administration, the local agency shall petition that agency to establish a representative payee for those benefits.

Sec. 51. [256D.60] [PAYMENT METHODS.]

Minnesota supplemental aid grants must be issued by the local agency to the recipient, a protective payee, or a conservator or guardian of his or her estate, in the form of county warrants immediately redeemable in cash. Minnesota supplemental aid warrants must be issued regularly on the first day of the month and the payment must be made only to the address where the recipient resides, unless another address has been approved in advance by the local agency. If the local welfare agency has arranged for direct depositing, the agency may, at the request of the recipient, forward Minnesota supplemental aid warrants or allowance amounts directly to banks, savings and loan associations, or credit unions with which the recipient has made arrangements for direct deposit. Vendor payments may be made by the local agency only for nonrecurring emergency need payments, replacement or repair of household appliances, and home repairs.

Sec. 52. [256D.61] [PROTECTIVE PAYMENTS.]

Subdivision 1. [NEED FOR PROTECTIVE PAYEE.] The local agency shall determine whether a recipient needs a protective payee because of a physical or mental condition and inability to manage funds that makes direct payments contrary to the recipient's welfare. The determination must include medical or psychological evaluations or other reports of physical or mental conditions including observation of conditions such as extensive paralysis, serious mental retardation, continuing disorientation, or severe memory loss.

The determination of representative payment by the Social Security Administration for the recipient is sufficient reason to implement protective payment of Minnesota supplemental aid payments. Protective payments must be issued if there is:

- (1) evidence of a continuing inability to plan the use of income to meet necessary expenditures;*
- (2) observation over time indicating that dependents are not properly fed or clothed;*
- (3) continuing failure to meet obligations for rent, utilities, food, and other essentials;*
- (4) evictions or repeated incurrence of debts; or*
- (5) repeated occurrences of lost or stolen checks.*

Subd. 2. [ESTABLISHING PROTECTIVE PAYMENT.] *When the local agency determines that the recipient needs a protective payee, the local agency shall appoint a payee as provided in this subdivision. When the Social Security Administration has established a representative payee for the recipient, the local agency shall appoint that representative payee as the protective payee for Minnesota supplemental aid payments, when possible. When a representative payee has not already been established, the local agency shall consider the recipient's preference of protective payee. The protective payee must have an interest in or concern for the welfare of the recipient and must be capable of and willing to provide the required assistance. The local agency director, members of the county welfare board, and vendors of goods or services including the recipient's landlord, must not serve as protective payee. The local agency shall terminate protective payments when an individual is considered able to manage funds in his or her best interest. Judicial appointment of a guardian or other legal representative must be sought by the local agency if appropriate to serve the best interest of the individual.*

Subd. 3. [FAIR HEARING.] *Opportunity for a fair hearing must be given to a recipient concerning the determination that a protective payment must be made or continued, and the payee selected.*

Sec. 53. [256D.62] [OVERPAYMENTS AND UNDERPAYMENTS.]

Subdivision 1. [WHEN.] *When the local agency finds that the recipient received less than or more than the correct amount of Minnesota supplemental aid benefits, the local agency shall issue a corrective payment of underpayments under subdivision 2 or seek recoupment of overpayments under subdivision 3.*

Subd. 2. [UNDERPAYMENT OF MONTHLY GRANTS.] *When the local agency determines that an underpayment of the recipient's monthly payment occurred, the agency shall issue a corrective payment, during the month the underpayment was discovered. The payment must be one payment for all the months for which underpayment was made. If the underpayment would result in a corrective payment of less than \$10, no corrective payment must be made. Corrective payments may be made only for the 12-month period immediately preceding the month in which the underpayment is discovered and must be excluded when determining the applicant's or recipient's income and resources.*

Subd. 3. [OVERPAYMENT OF MONTHLY GRANTS.] When the local agency determines that an overpayment of the recipient's monthly payment occurred, the agency shall issue a notice of overpayment to the recipient within 12 months of the identification of the overpayment. If the case is no longer open, the local agency may request voluntary repayment or pursue civil recovery. If the recipient's case is open, the local agency shall recover the overpayment by withholding an amount up to one-half of the monthly disregarded income.

Sec. 54. [256D.63] [NOTICE.]

Subdivision 1. [TEN-DAY NOTICE.] Except as provided in subdivisions 2 and 3, the local agency shall give the recipient ten days' advance written notice when the agency intends to terminate, suspend, or reduce a grant. The ten-day notice must be in writing on a form prescribed by the commissioner; mailed or given to the recipient at least ten days before the effective date of the action; and clearly state the action the local agency intends to take, the reasons for the action, the right to appeal the action, and the conditions under which assistance can be continued pending an appeal.

Subd. 2. [FIVE-DAY NOTICE.] The local agency shall give at least five days advance notice when the agency has verified and documented that the case facts require termination, suspension, or reduction of the grant and the action is required because of probable fraud by the recipient.

Subd. 3. [ADEQUATE NOTICE.] The agency shall give notice of adverse action no later than the effective date of the action when: (1) the agency has factual information confirming the death of a person whose needs are included in the grant; (2) the agency receives a clear written statement, signed by the recipient, that he or she no longer wishes assistance; (3) the agency receives a clear statement, signed by the recipient, reporting information the recipient understands will require termination of or a reduction in the grant; (4) the recipient has been placed in a skilled nursing home, intermediate care, or long-term hospitalization facility; (5) the recipient has been admitted to or committed to an institution; (6) the recipient has been accepted for assistance in a new county; or (7) the recipient's whereabouts are unknown and the agency mail directed to her or him has been returned by the post office indicating no forwarding address.

Sec. 55. [256D.64] [APPEALS.]

Subdivision 1. [RIGHT TO APPEAL.] Applicants and recipients have a right to a fair hearing if they are aggrieved by an action or by inaction of the local agency. Appealable issues include (1) denial of the right to apply for assistance; (2) failure on the part of the local agency to act upon the application in a prompt or timely fashion; (3) denial of an application for assistance; (4) suspension, reduction, or termination of assistance; (5) grant calculations, including the calculated amounts of overpayments and calculated levels of recoupments due to overpayments; (6) the determination of periods of ineligibility and the applicability of those periods to various members of the family resulting from receipt of a lump sum; (7) the availability and calculation of corrective payments; (8) use of protective or vendor payments; (9) recoupment of overpayments limited to those issues which led to the alleged overpayment; and (10) other issues related to eligibility for an amount of Minnesota supplemental aid, as required by state law and rule.

Subd. 2. [COSTS RELATED TO APPEALS.] Reasonable and necessary expenses, as determined by the local agency, that are related to the applicant's or recipient's attendance at the hearing must be reimbursed by the local agency. Reasonable and necessary costs of attendance by witnesses must be reimbursed only if the appellant prevails in the appeal.

Subd. 3. [RIGHT TO APPEAL.] A grant of Minnesota supplemental aid, other than a grant made under section 256D.59, must not be reduced, terminated, or suspended unless the recipient is given notice and an opportunity to be heard prior to action by the local agency. A recipient has the right to full administrative and judicial review of an order or determination of a local agency as provided for in section 256.045 after an action taken by a local agency after a prior hearing.

Subd. 4. [CONTINUATION OF PAYMENT PENDING APPEAL DECISION.] When assistance is reduced, suspended, or terminated, the grant must be continued pending an appeal decision. If a recipient appeals a decision to reduce, suspend, or terminate a grant within ten days of the notice or prior to the effective date of the proposed action, whichever is later, the grant must be continued pending an appeal decision.

Sec. 56. [256D.65] [REPORTING REQUIREMENTS.]

The eligibility of recipients of Minnesota supplemental aid must be redetermined at least once every 12 months. Applicants and recipients must provide, report, and verify all information necessary to determine initial and ongoing eligibility at the time of application and at the time a redetermination or report form is due. Applicants and recipients must report any change in income and household circumstances which affect eligibility within eight days of the change. A report form must be completed monthly by recipients who have earned income and quarterly by recipients without earned income. Failure to complete and return the household report prior to the last ten days of a month without good cause will result in the withholding of the subsequent month's grant until the report is provided.

Sec. 57. [256D.66] [FRAUD.]

Whoever obtains or attempts to obtain, or aids or abets any person to obtain, by means of a willfully false statement or misrepresentation, by the intentional withholding or concealing of a material fact, by impersonation, or by other fraudulent device, assistance to which he or she is not entitled or assistance greater than that to which he or she is reasonably entitled is a violation of section 256.98, and is subject to the criminal and civil penalties established in that section.

Sec. 58. [256D.67] [RELATIVE'S RESPONSIBILITY.]

A spouse, or a parent of a minor applicant or recipient, is financially responsible for the applicant or recipient.

Sec. 59. [256D.68] [DUTIES OF THE COMMISSIONER.]

In addition to any other duties imposed by law, the commissioner shall supervise the administration of Minnesota supplemental aid by local agencies as provided in sections 256D.47 to 256D.71; adopt uniform rules under chapter 14 for carrying out and enforcing sections 256D.45 to 256D.71 in order that Minnesota supplemental aid may be administered as uniformly as

possible throughout the state; immediately after adoption, furnish rules to all local agencies and other interested persons; allocate money appropriated for Minnesota supplemental aid to local agencies as provided in section 256D.71; accept and supervise the disbursement of money that may be provided by the federal government or from other sources for use in this state for Minnesota supplemental aid; cooperate with other agencies including any agency of the United States or another state in all matters concerning the powers and duties of the commissioner provided in this section; and cooperate to the fullest extent with other public agencies empowered by law to provide vocational training, rehabilitation, or similar services.

Sec. 60. [256D.69] [MINNESOTA SUPPLEMENTAL AID TO BE ALLOWED AS CLAIM IN PROBATE COURT.]

At the death of any person who received Minnesota supplemental aid, or at the death of the survivor of a married couple, either or both of whom received Minnesota supplemental aid, the total amount paid as Minnesota supplemental aid on behalf of that person or persons, without interest, is a claim against the estate of the person or persons by the court having jurisdiction to probate the estate.

Sec. 61. [256D.70] [DATA PROCESSING PROCEDURES.]

The local agency shall, to the extent permitted by federal law or regulation, in addition to any other necessary records and procedures, include Minnesota supplemental aid records in any data processing system established for the medical assistance program, according to procedures established by the commissioner.

Sec. 62. [256D.71] [STATE AID.]

After December 31, 1985, state aid must be paid to local agencies for 85 percent of all Minnesota supplemental aid grants up to the payment levels specified in section 256D.58 under procedures established by the commissioner.

Sec. 63. [STUDY.]

The commissioner of human services shall study the rates paid under the general assistance and supplemental aid programs to negotiated rate facilities, and the costs of these facilities, and provide a report and recommendations to the legislature by February 15, 1986, concerning economical and effective reimbursement methods that will encourage rates that are equitable and consistent throughout the state. The commissioner may collect information from local agencies and facilities as required to complete the study.

Sec. 64. [MENTAL HEALTH DEMONSTRATION PROJECTS.]

Subdivision 1. [PURPOSE.] The purpose of this section is to establish projects to demonstrate the feasibility and value of using preadmission screening and case management services for persons who have mental illness; to facilitate the development of continuums of mental health services; to integrate community-based and state-operated treatment services in order to provide services in the least restrictive setting possible; to create incentives for the development and use of less restrictive treatment alternatives; and to obtain information on effective methods of promoting long-term health care cost containment and state budget predictability.

Subd. 2. [ESTABLISHMENT OF PROJECTS.] The commissioner of human services shall establish at least three, but no more than five, demonstration projects to demonstrate the use of local screening and case management for services to persons who have mental illness. The total of all eligible individuals under all projects established under this section must not exceed _____ persons who have mental illness. At least two projects must include nonmetropolitan counties and at least one must include a metropolitan area county. The commissioner shall make maximum use of available federal and state money and establish the broadest program possible with the available money. Demonstration projects may encompass all, or a portion of, a project area's total caseload of persons with mental illness.

Subd. 3. [PRIMARY PROVIDERS.] The commissioner of human services shall designate the primary provider of services for a county or multi-county area included in a project. Upon the recommendation of the counties participating in a project, the commissioner shall designate a single agency as the primary provider of services for that project. In at least one project, the primary provider must be a mental health center, and in at least one project, the primary provider must be a county agency. The commissioner shall contract with each primary provider concerning the obligations relating to the demonstration project including services to eligible individuals, accounting for money received, reporting and evaluation, and maintenance of services and expenditures. A primary provider may contract with other providers to provide any of the required services. Each primary provider is responsible for:

- (1) screening all eligible individuals as required under subdivision 5;*
- (2) ensuring that services are delivered, directly or under contract with other providers, to eligible individuals;*
- (3) monitoring and evaluating delivery of services;*
- (4) accounting for all money received for the project; and*
- (5) complying with the provisions of this section and standards established for the project by the commissioner.*

Subd. 4. [ELIGIBILITY.] Individuals eligible for services provided through the demonstration projects are mentally ill individuals, 18 years of age and older, for whom a county participating in a project is the county of financial responsibility, who are currently eligible for treatment under existing funding or who meet general assistance eligibility criteria; and those mentally ill individuals who are currently residents or patients of state hospitals or are proposed for admission to state hospitals according to standards in effect on the effective date of this section. Individuals residing in or admitted to, the Minnesota security hospital are not eligible for services under this section. In addition, the commissioner and a county or counties participating in a project may agree to include, as eligible individuals, children under the age of 18 who have mental illness and who are:

- (1) residents of a facility licensed under Minnesota Rules, parts 9545.0900 to 9545.1090 and 9545.1400 to 9545.1500;*
- (2) receiving day treatment services;*
- (3) being considered for placement in another county or state; and*

(4) referred for screening from court services.

Subd. 5. [SCREENING OF ELIGIBLE PERSONS.] All persons eligible under subdivision 4 must be screened to determine the need for treatment and case management services. Eligible persons must be screened by a local multi-disciplinary screening team. Each screening team must assess the mental and physical health and social functioning of eligible individuals, using a scaling criteria developed jointly by the commissioner and participating counties. Each screening team must develop an individual treatment plan for each eligible individual that will include specific planned outcomes to meet the needs of the individual. The plan must also identify:

(1) case management services the individual will receive;

(2) available noninstitutional services to be provided in order to meet the needs of the individual while maintaining the individual in the community;

(3) the level and type of inpatient or residential care needed, including admission and discharge plans to be provided as part of case management; and

(4) the lead agency for case management services.

Subd. 6. [SERVICES.] Case management services must be provided, as part of each demonstration project, to ensure coordination of the service plan by ongoing contact with the individual and with formal and informal service providers. Case management must include at least a quarterly re-evaluation of each individual service plan. In addition to case management services, the primary provider must ensure that at least the following mental health services are available and provided as necessary through providers that satisfy current licensure, approval, or certification requirements: outpatient treatment, emergency care services, day treatment, screening and assessment, consultation and education, inpatient treatment, and residential and transitional living programs.

Subd. 7. [STATE HOSPITAL ADMISSIONS.] Persons who are found to be appropriate for admission to state hospitals, using the scaling criteria outlined in subdivision 5, must be admitted. Counties participating in a demonstration project shall continue to provide case management services to these patients and are responsible for ten percent of the cost of the state hospital care. The commissioner and state hospital staff shall cooperate with providers in developing and implementing a system for screening admissions and notifying the provider of admissions and discharges of eligible individuals for whom the provider is financially responsible. The primary provider is not responsible for the cost of care of patients admitted to a state hospital without the prior preadmission screening and authorization of the primary provider. The primary provider is responsible for the full cost of care for persons admitted to a state hospital who have been screened and who are not appropriate for admission to the hospital using the scaling criteria developed under subdivision 5.

Subd. 8. [COMMITMENTS.] When committing a resident of a participating county under Minnesota Statutes, chapter 253B, the committing court is encouraged to commit the person to the primary provider, or to the facility designated by the primary provider, absent good cause to the contrary. For an individual committed to the primary provider under Minnesota Statutes,

chapter 253B, the primary provider shall assess the individual's need for services, develop an individual treatment plan as provided in this section, and ensure that necessary services are provided in accordance with this section and Minnesota Statutes, chapter 253B.

Subd. 9. [ALTERNATE CARE GRANTS.] The commissioner shall provide grants to counties participating in the program to pay the costs of providing alternative care to individuals screened under subdivision 5. Payment is available under this subdivision only for services that would not otherwise be available at that time in the county through other public programs. Project money must not be used to supplant services available through other public assistance or service programs and must not be used to establish new programs for which public money is available through sources other than grants provided under this subdivision. Project money cannot be used to provide care to an individual if the anticipated costs of providing this care would exceed the average payment, as determined by the commissioner, for the level of care that the recipient would receive if placed in a state hospital. Each county participating in the project will pay a share of the costs equal to the county share of the costs for state hospital care.

Subd. 10. [FEDERAL WAIVERS.] The commissioner of human services shall seek federal medical assistance waivers in order to obtain federal participation in the costs of screening and case management for persons with mental illness.

Subd. 11. [REPORTING AND EVALUATION.] The director of the state planning agency shall evaluate the demonstration projects established under this section and report to the commissioner of human services and the legislature by January 30, 1987. Before implementing the project, the director of the state planning agency shall consult with the commissioner of human services and participating projects to develop a reporting and evaluation method including:

(1) the reliability of the scaling instruments and criteria for determining the level of care needed and for projecting future utilization of state hospitals;

(2) a comparison of the costs and effects of providing services through the demonstration projects and through the existing system in nonproject areas;

(3) the effect on the individual's access to care;

(4) the effect on the clinical outcome for the patient;

(5) data necessary for the state to develop capitated rates in the future;

(6) methods to improve the overall case management program; and

(7) the usefulness of this model to enhance the development of community-based care and reduce inappropriate institutionalization.

Subd. 12. [RULES.] The commissioner of human services shall adopt emergency rules in order to implement this section. Rules remain in effect until the pilot program is terminated.

Sec. 65. [APPROPRIATIONS.]

Subdivision 1. [CHEMICAL DEPENDENCY FUND.] The general fund appropriation for the general assistance program is reduced by

\$_____ and reappropriated to the commissioner of human services for transfer to the chemical dependency services fund.

The general fund appropriation for the general assistance medical care program is reduced by \$_____ and reappropriated to the commissioner of human services for transfer to the chemical dependency services fund.

The general fund appropriation for the medical assistance program is reduced by \$_____ and reappropriated to the commissioner of human services for transfer to the chemical dependency services fund.

The general fund appropriation for the state hospital account is reduced by \$_____ and reappropriated to the commissioner of human services for transfer to the chemical dependency services fund.

Notwithstanding any other law to the contrary, the federal alcohol and drug block grant is appropriated to the commissioner of human services for the chemical dependency services fund.

Subd. 2. [DEMONSTRATION PROJECT.] \$_____ is appropriated from the general fund to the commissioner of human services to establish mental health demonstration projects.

Subd. 3. [MEDICAL ASSISTANCE TRANSFERS.] Seventy percent of the appropriation for alternative care grants under Minnesota Statutes, section 256B.091, subdivision 8, is transferred to the community care incentive fund for purposes of section 256B.095, to be available until June 30, 1987. The funding necessary for section 256B.19, subdivision 1, is available from the appropriation for medical assistance.

Subd. 4. [COMMISSIONER OF HUMAN SERVICES.] \$_____ is appropriated from the general fund to the commissioner of human services to establish standards for and provide technical assistance to county boards in their lead agency function under section 393.07, subdivision 2a, and to conduct a study of rates paid under general assistance and Minnesota supplemental aid to negotiated rate facilities, \$_____ to be available for the fiscal year ending June 30, 1986, and \$_____ to be available for the fiscal year ending June 30, 1987.

Sec. 66. [REPEALER.]

Minnesota Statutes 1984, sections 256D.36; 256D.37; 256D.38; 256D.39; 256D.41; 256D.42; and 256D.43; are repealed effective January 1, 1986. Minnesota Statutes 1984, section 252.27, subdivision 4, is repealed effective August 1, 1985.

Sec. 67. [EFFECTIVE DATES.]

Sections 1 to 7, and 35 to 63 are effective January 1, 1986. Section 64 is effective the day following final enactment."

Delete the title and insert:

"A bill for an act relating to human services; creating a chemical dependency fund to pay for chemical dependency services; modifying the family subsidy program for families with children with mental retardation; requiring notice to the designated agency in certain proceedings pertaining to persons

committed as mentally ill and dangerous; authorizing transfer of persons committed as mentally ill and dangerous; establishing requirements for the supplemental aid program; establishing a grant program for community services for the elderly; changing the method of determining and paying the state share of nursing home payments under medical assistance; designating the county board as the lead agency for services to the elderly; requiring a study of rates paid to negotiated rate facilities; authorizing a demonstration project for mental health services; appropriating money; amending Minnesota Statutes 1984, sections 246.04; 246.18; 246.23; 246.50; by adding a subdivision; 246.51, subdivision 1; 246.54; 252.291, subdivisions 2 and 3; 252.32; 253B.14; 253B.18, subdivisions 4b, 5, and 6; 253B.23, subdivision 7; 256B.02, subdivision 8; 256B.091, subdivision 8; 256B.092, subdivisions 3 and 7, and by adding a subdivision; 256B.19, subdivision 1; 256B.501, subdivision 8; 256B.70; and 256D.03, subdivision 4; proposing coding for new law in Minnesota Statutes, chapters 246; 256B; and 256D; proposing coding for new law as Minnesota Statutes, chapter 254B; repealing Minnesota Statutes 1984, sections 252.27, subdivision 4; 256D.36; 256D.37; 256D.38; 256D.39; 256D.41; 256D.42; and 256D.43."

And when so amended the bill do pass and be re-referred to the Committee on Finance. Amendments adopted. Report adopted.

Mr. Chmielewski from the Committee on Employment, to which was referred

S.F. No. 41: A bill for an act relating to unemployment compensation; regulating the payment, amount, and eligibility for benefits; setting employer contribution rates; amending Minnesota Statutes 1984, sections 268.04, subdivision 25; 268.06, subdivisions 3a, 6, and 8; 268.061; 268.07, subdivision 2.

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

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 1984, section 268.04, subdivision 24, is amended to read:

Subd. 24. "Valid claim" with respect to any individual means a claim filed by an individual who has registered for work and who has earned wage credits and established credit weeks *or alternative credit weeks* during his base period sufficient to entitle him to benefits under section 268.07, subdivision 2.

Sec. 2. Minnesota Statutes 1984, section 268.04, subdivision 29, is amended to read:

Subd. 29. "Credit week" is any week for which wages or back pay, actually or constructively paid, wages overdue and delayed beyond the usual time of payment, and back pay by or from one or more employers to an employee for insured work equal or exceed 30 percent of the average weekly wage computed to the nearest whole dollar. On or before June 30 of each year the commissioner shall determine the average weekly wage paid by employers subject to sections 268.03 to 268.24 in the following manner:

(a) The sum of the total monthly employment reported for the previous calendar year shall be divided by 12 to determine the average monthly employment;

(b) The sum of the total wages reported for the previous calendar year shall be divided by the average monthly employment to determine the average annual wage; and

(c) The average annual wage shall be divided by 52 to determine the average weekly wage.

The average weekly wage as so determined computed to the nearest whole dollar shall apply to claims for benefits which establish a benefit year which begins subsequent to December 31 of the year of the computation \$100.

Sec. 3. Minnesota Statutes 1984, section 268.04, is amended by adding a subdivision to read:

Subd. 29a. [ALTERNATIVE CREDIT WEEK.] "Alternative credit week" means any week for which wages or back pay, actually or constructively paid, wages overdue and delayed beyond the usual time of payment, and back pay by or from one or more employers to an employee for insured work are less than \$100 and the hours equal or exceed 20.

Sec. 4. Minnesota Statutes 1984, section 268.04, subdivision 30, is amended to read:

Subd. 30. "Average weekly wage" means the quotient derived by dividing the total wage credits earned by an individual from all employers in insured work in the base period by the number of credit weeks or alternative credit weeks.

Sec. 5. Minnesota Statutes 1984, section 268.06, subdivision 3a, is amended to read:

Subd. 3a. [RATE FOR NEW EMPLOYERS.] (a) Notwithstanding the provisions of subdivision 2, each employer, who becomes subject to this law, shall pay contributions at a rate:

(a) Not exceeding 2-7/10 percent, that is the higher of (1) one percent and (2) the state's three-year benefit cost rate for the 36 consecutive month period immediately preceding July 1 of each year for each employer who becomes subject to this law prior to January 1, 1984. For purposes of this clause, the state's three-year benefit cost rate shall be computed annually and shall be derived by dividing the total dollar amount of benefits paid to claimants under this law during the 36 consecutive calendar months immediately preceding July 1 of each year by the total dollar amount of wages subject to contributions under this law during the same period. The rate so determined shall be applicable for the calendar year next succeeding each computation date.

(b) Not exceeding 2-7/10 percent, that is the higher of (1) one percent and (2) the state's four-year benefit cost rate for the 48 consecutive month period immediately preceding July 1 of each year for each employer, except employers in the construction industry, as determined by the commissioner, who becomes subject to this law subsequent to December 31, 1983 and prior to January 1, 1985. For purposes of this clause, the state's four-year benefit cost rate shall be computed and derived by dividing the total dollar amount of benefits paid to

claimants under this law during the 48 consecutive calendar months immediately preceding July 1, 1983 by the total dollar amount of wages subject to contributions under this law during the same period. The rate so determined shall be applicable for the calendar year 1984.

Each construction employer described above who becomes subject to chapter 268 shall pay contributions at a rate, not exceeding 7-1/2 percent that is the higher of (1) one percent, or (2) the state's four-year benefit cost rate for construction employers for the 48 consecutive month period immediately preceding July 1, 1983. For purposes of this clause, the state's four-year benefit cost rate shall be computed and derived by dividing the total dollar amount of benefits paid to claimants of construction employers, as determined by the commissioner, during the 48 consecutive calendar months immediately preceding July 1, 1983 by the total dollar amount of wages of construction employers subject to contributions during the same period. The rate so determined shall be applicable for the calendar year 1984.

(e) not exceeding 5-4/10 percent, that is the higher of (1) one percent and (2) the state's five-year benefit cost rate for the 60 consecutive month period immediately preceding July 1, 1984, and each year thereafter for each employer, except employers in the construction industry, as determined by the commissioner, who becomes subject to this law on January 1, 1985 and thereafter. For purposes of this *clause paragraph*, the state's five-year benefit cost rate shall be computed annually and shall be derived by dividing the total dollar amount of benefits paid to claimants under this law during the 60 consecutive calendar months immediately preceding July 1, 1984 and each year thereafter by the total dollar amount of wages subject to contributions under this law during the same period. The rate so determined shall be applicable for the calendar year next succeeding each computation date.

(b) Each construction employer described *above in paragraph (a)* who becomes subject to this chapter shall pay contributions at a rate, not exceeding 7-1/2 percent *the maximum rate specified in subdivision 8*, that is the higher of (1) one percent, or (2) the state's five-year benefit cost rate for construction employers for the 60 consecutive month period immediately preceding July 1, 1984 and each year thereafter. For purposes of this *clause paragraph*, the state's five-year benefit cost rate shall be computed annually and shall be derived by dividing the total dollar amount of benefits paid to claimants of construction employers, as determined by the commissioner, during the 60 consecutive calendar months immediately preceding July 1, 1984 and each year thereafter by the total dollar amount of wages of construction employers subject to contributions during the same period. The rate so determined shall be applicable for the calendar year next succeeding each computation date.

Sec. 6. Minnesota Statutes 1984, section 268.06, subdivision 8, is amended to read:

Subd. 8. [DETERMINATION OF CONTRIBUTION RATES.] (a) For each calendar year the commissioner shall determine the contribution rate of each employer by adding the minimum rate to the *employer's* experience ratio; *except that if the ratio for the current calendar year increases or decreases the experience ratio for the preceding calendar year by more than one and one-half percentage points for 1982; and 2-1/2 percentage points for 1983 and each year thereafter, the increase or decrease for the current year shall be lim-*

ited to one and one-half percentage points for 1982; and 2-1/2 percentage points for 1983 and each year thereafter, provided that a small business employer shall be eligible, upon application, for a reduction in the limitation to 1-1/2 percentage points for 1983 and each year thereafter. "Small business employer" for the purpose of this subdivision means an employer with an annual covered payroll of \$250,000 or less, or fewer than 20 employees in three of the four quarters ending June 30, of the previous calendar year.

(b) The minimum rate for all employers shall be one percent if the amount in the unemployment compensation fund is less than \$80,000,000 on June 30 of the preceding calendar year; or nine-tenths of one percent if the fund is more than \$80,000,000 but less than \$90,000,000; or eight-tenths of one percent if the fund is more than \$90,000,000 but less than \$110,000,000; or seven-tenths of one percent if the fund is more than \$110,000,000 but less than \$130,000,000; or six-tenths of one percent if the fund is more than \$130,000,000 but less than \$150,000,000; or five-tenths of one percent if the fund is more than \$150,000,000 but less than \$170,000,000; or three-tenths of one percent if the fund is more than \$170,000,000 but less than \$200,000,000; or one-tenth of one percent if the fund is \$200,000,000 or more; provided that.

(c) No employer shall have a contribution rate of more than 7.5 8.0 percent for calendar years 1986 and 1987 and 8.5 percent for calendar years 1988 and thereafter.

(d) For the purposes of this section the unemployment compensation fund shall not include any moneys advanced from the Federal Unemployment Account in the unemployment trust fund in accordance with Title XII of the Social Security Act, as amended. No employer first assigned an experience ratio in accordance with subdivision 6, shall have his contribution rate increased or decreased by more than one and one-half percentage points for 1982; and 2-1/2 percentage points for 1983 and each year thereafter over the contribution rate assigned for the preceding calendar year in accordance with subdivision 3a, provided that a small business employer shall be eligible, upon application, for a reduction in the limitation to 1-1/2 percentage points for 1983 and each year thereafter.

Sec. 7. Minnesota Statutes 1984, section 268.06, subdivision 24, is amended to read:

Subd. 24. [REASSIGNMENT.] (a) Notwithstanding any inconsistent provisions of law any employer who has been assigned a contribution rate pursuant to subdivisions 4, 6, and 8 of this section may, for the calendar year 1967, or any calendar year thereafter, upon the voluntary payment of an amount equivalent to any portion or all of the benefits charged to his account during the period ending June 30 of the preceding year used for the purpose of computing an employer's experience ratio as authorized by said subdivisions 4, 6, and 8, obtain a cancellation of benefits charged to his account during such period equal to such payment so voluntarily made. Upon the payment of such voluntary contribution, plus a surcharge of 25 percent of such benefit charged, within the applicable period prescribed by the provisions of this subdivision, the commissioner shall cancel the benefits equal to such payment, excluding the 25 percent surcharge, so voluntarily made and compute a new experience ratio for such employer. The employer then shall be as-

signed the contribution rate applicable to the category within which his recomputed experience ratio is included. Such voluntary payments may be made only during the 30-day period immediately following the date of mailing to the employer of the notice of his contribution rate as prescribed in this section; provided that the commissioner may extend this period if he finds that the employer's failure to make such payment within such 30-day period was for good cause; and provided further that notwithstanding any of the foregoing provisions of this subdivision, in no event shall any new experience ratio be computed for any employer or his contribution rate be reduced as a result of any such voluntary payment which he made after the expiration of the 120-day period commencing with the first day of the calendar year for which such rate is effective. Any adjustments under this subdivision shall be used only in the form of credits against accrued or future contributions.

(b) Notwithstanding subdivision 2, all employers receiving a reassigned rate under this subdivision shall pay contributions on wages as defined under section 268.04, subdivision 25, clause (a), for the year of reassignment and for each year thereafter until the employer's ratio, computed as though a voluntary contribution was not made, is less than one-tenth of one percent.

(c) When all or a part of the benefits charged to an employer's account are for the unemployment of 75 percent or more of the employees in an employing unit and the unemployment is caused by damages to the unit by fire, flood, wind or other act of God, the employer may obtain a cancellation of benefits incurred because of that unemployment in the manner provided by this subdivision without being subject to the surcharge of 25 percent otherwise required.

Sec. 8. Minnesota Statutes 1984, section 268.07, subdivision 2, is amended to read:

Subd. 2. [WEEKLY BENEFIT AMOUNT AND DURATION.] (a) If the commissioner finds that an individual has earned 15, or more, credit weeks, *or, failing that, 30 or more alternative credit weeks*, within the base period of employment in insured work with one or more employers, *benefits shall be the weekly benefit amount payable to such individual during his benefit year as follows:*

(1) *Weekly benefit amount* shall be equal to 60 percent of the first \$85, 40 percent of the next \$85, and 50 percent of the remainder of the average weekly wage of such individual. The amount so computed if not a whole dollar shall be rounded down to the next lower dollar amount. The maximum weekly benefit amount of claims for benefits which establish a benefit year subsequent to July 1, ~~1979~~ 1985, shall be ~~66-2/3~~ 60 percent of the average weekly wage, *except as provided in clause (d) as determined under paragraph (b).*

(b) On or before June 30 of each year the commissioner shall determine the average weekly wage paid by employers subject to sections 268.03 to 268.24 in the following manner:

(a) (1) The sum of the total monthly employment reported for the previous calendar year shall be divided by 12 to determine the average monthly employment.

(b) (2) The sum of the total wages reported for the previous calendar year

shall be divided by the average monthly employment to determine the average annual wage.

(e) (3) The average annual wage shall be divided by 52 to determine the average weekly wage.

The maximum weekly benefit amount as so determined computed to the nearest whole dollar shall apply to claims for benefits which establish a benefit year which begins subsequent to June 30 of each year.

(d) ~~The maximum weekly benefit amount for claims for benefits which establish a benefit year subsequent to June 30, 1982, and prior to July 1, 1983, shall be \$184.~~

~~The maximum weekly benefit amount for claims for benefits which establish a benefit year subsequent to June 30, 1983, and prior to July 1, 1984, shall be \$191.~~

~~The maximum weekly benefit amount for claims for benefits which establish a benefit year subsequent to June 30, 1984, and prior to July 1, 1985, shall be \$198.~~

(2) (c) An individual's maximum amount of regular benefits payable in a benefit year shall not exceed the lesser of (a) 26 times his weekly benefit amount or (b) 70 percent of the number of credit weeks *or alternative credit weeks* earned by such an individual computed to the nearest whole week times his weekly benefit amount.

(3) (d) Each eligible individual who is unemployed in any week shall be paid with respect to such week a benefit in an amount equal to his weekly benefit amount less that part of his earnings, ~~including~~ *excluding* holiday pay, payable to him with respect to such week which is in excess of \$25 or \$200 for earnings from service in the national guard or a United States military reserve unit. Jury duty pay is not considered as earnings and shall not be deducted from benefits paid. Such benefit, if not a whole dollar amount shall be rounded down to the next lower dollar amount.

(4) ~~The provisions of clauses (1) and (2) shall apply to claims for benefits which establish a benefit year subsequent to June 30, 1983.~~

Sec. 9. Minnesota Statutes 1984, section 268.07, subdivision 2a, is amended to read:

Subd. 2a. [EXCEPTION.] Notwithstanding the provisions of subdivision 2, if the commissioner finds that an individual has earned credit weeks *or alternative credit weeks* in seasonal employment, benefits shall be payable only if the commissioner finds that the individual has earned *at least* 15 credit weeks *or 30 alternative credit weeks* in employment which is not seasonal, in addition to any credit weeks *or alternative credit weeks* in seasonal employment. For the purposes of this subdivision, "seasonal employment" means employment with a single employer in the recreation or tourist industry which is available with the employer for 15 consecutive weeks or less each calendar year.

Sec. 10. Minnesota Statutes 1984, section 268.071, subdivision 1, is amended to read:

Subdivision 1. [DEFINITIONS.] As used in this section, unless the con-

text clearly requires otherwise:

(1) [EXTENDED BENEFIT PERIOD.] "Extended benefit period" means a period which

(a) Begins with the third week after a week for which there is a state "on" indicator; and

(b) Ends with either of the following weeks, whichever occurs later: The third week after the first week for which there is a state "off" indicator; or the 13th consecutive week of the period;

Provided, that no extended benefit period may begin before the 14th week following the end of a prior extended benefit period which was in effect with respect to this state.

(2) [STATE "ON" INDICATOR.] There is a "state 'on' indicator" for this state for a week if the commissioner determines, in accordance with the regulations of the United States secretary of labor, that for the period consisting of such week and the immediately preceding 12 weeks, the rate of insured unemployment (not seasonally adjusted) under this law

(a) equaled or exceeded 120 percent of the average of such rates for the corresponding 13 week period ending in each of the preceding two calendar years, and

(b) equaled or exceeded five percent.

The determination of whether there has been a state "on" indicator beginning any extended benefit period may be made as provided in clauses (a) and (b) above or a "state 'on' indicator" shall exist if the rate described in clause (b) equaled or exceeded six percent irrespective of whether the percentage requirement provided by clause (a) is met or exceeded.

(3) [STATE "OFF" INDICATOR.] There is a "state 'off' indicator" for this state for a week if, for the period consisting of such week and the immediately preceding 12 weeks, the rate of insured unemployment is less than six percent and the requirements for a "state 'on' indicator" under clause (2) of this subdivision are not satisfied.

(4) [RATE OF INSURED UNEMPLOYMENT.] "Rate of insured unemployment," for purposes of clauses (2) and (3), means the percentage derived by dividing the average weekly number of individuals filing claims for regular benefits in this state for weeks of unemployment with respect to the most recent 13 consecutive week period, as determined by the commissioner on the basis of his reports to the United States secretary of labor, by the average monthly employment covered under this law for the first four of the most recent six completed calendar quarters ending before the end of such 13 week period.

(5) [REGULAR BENEFITS.] "Regular benefits" means benefits payable to an individual under this law or under any other state law (including benefits payable to federal civilian employees and to ex-servicemen pursuant to 5 U.S.C. chapter 85) other than extended benefits and additional benefits.

(6) [EXTENDED BENEFITS.] "Extended benefits" means benefits (including benefits payable to federal civilian employees and to ex-servicemen pursuant to 5 U.S.C. chapter 85) payable to an individual under the provi-

sions of this section for weeks of unemployment in his eligibility period.

(7) [ADDITIONAL BENEFITS.] "Additional benefits" means benefits payable to exhaustees by reason of conditions of high unemployment or by reason of other special factors under the provisions of any state law.

(8) [ELIGIBILITY PERIOD.] "Eligibility period" of an individual means the period consisting of the weeks in his benefit year which begin in an extended benefit period and, if his benefit year ends within such extended benefit period, any weeks thereafter which begin in such period.

(9) [EXHAUSTEE.] "Exhaustee" means an individual who, with respect to any week of unemployment in his eligibility period:

(a) Has received, prior to such week, all of the regular benefits that were available to him under this law or any other state law (including dependents' allowances and benefits payable to federal civilian employees and ex-servicemen under 5 U.S.C. chapter 85) in his current benefit year that includes such week;

Provided, that, for the purposes of this paragraph, an individual shall be deemed to have received all of the regular benefits that were available to him although as a result of a pending appeal with respect to wage credits or, credit weeks, or *alternative credit weeks* that were not considered in the original monetary determination in his benefit year, he may subsequently be determined to be entitled to added regular benefits; or

(b) His benefit year having expired prior to such week, has no, or insufficient, wages and/or employment on the basis of which he could establish a new benefit year that would include such week or having established a benefit year that includes such week, he is precluded from receiving regular compensation by reason of: (i) a state law provision which meets the requirements of section 3304 (a) (7) of the Internal Revenue Code of 1954, or (ii) a disqualification determination which cancelled wage credits or totally reduced his benefit rights, or (iii) benefits are not payable by reason of a seasonal limitation in a state unemployment insurance law; and

(c) Has no right to unemployment benefits or allowances, as the case may be, under the railroad unemployment insurance act, the trade expansion act of 1962, the automotive products act of 1965 and such other federal laws as are specified in regulations issued by the United States secretary of labor; and has not received and is not seeking unemployment benefits under the unemployment compensation law of Canada; but if he is seeking such benefits and the appropriate agency finally determines that he is not entitled to benefits under such law he is considered an exhaustee.

(10) [STATE LAW.] "State law" means the unemployment insurance law of any state, approved by the United States secretary of labor under section 3304 of the Internal Revenue Code of 1954.

Sec. 11. Minnesota Statutes 1984, section 268.08, subdivision 1, is amended to read:

Subdivision 1. [ELIGIBILITY CONDITIONS.] An individual shall be eligible to receive benefits with respect to any week of unemployment only if the commissioner finds that the individual:

(1) has registered for work at and thereafter has continued to report to an

employment office, or agent of the office, in accordance with rules the commissioner may adopt; except that the commissioner may by rule waive or alter either or both of the requirements of this clause as to types of cases or situations with respect to which the commissioner finds that compliance with the requirements would be oppressive or would be inconsistent with the purposes of sections 268.03 to 268.24;

(2) has made a claim for benefits in accordance with rules as the commissioner may adopt; and

(3) was able to work and was available for work, and was actively seeking work. The individual's weekly benefit amount shall be reduced one-fifth for each day the individual is unable to work or is unavailable for work. Benefits shall not be denied by application of this clause to an individual who is in training with the approval of the commissioner or in training approved pursuant to section 236 of the Trade Act of 1974, as amended;

An individual is deemed unavailable for work with respect to any week which occurs in a period when the individual is a full-time student in attendance at, or on vacation from an established school, college or university unless a majority of the credit weeks or *alternative credit weeks* earned in the base period were for services performed during weeks in which the student was attending school as a full-time student. *If the individual has qualified for benefits under the alternative credit week requirement, as provided under section 268.07, subdivision 2, paragraph (a), the individual shall be considered unavailable for work with respect to any week which occurs when the individual is a full-time student.*

An individual serving as a juror shall be considered as available for work and actively seeking work on each day the individual is on jury duty.

(4) has been unemployed for a waiting period of one week during which the individual is otherwise eligible for benefits under sections 268.03 to 268.24. However, payment for the waiting week shall be made to the individual after the individual has qualified for and been paid benefits for four weeks of unemployment in a benefit year which period of unemployment is terminated because of the individual's return to employment. No individual is required to serve a waiting period of more than one week within the one year period subsequent to filing a valid claim and commencing with the week within which the valid claim was filed.

Sec. 12. Minnesota Statutes 1984, section 268.08, is amended by adding a subdivision to read:

Subd. 10. [APPROVED TRAINING.] (a) [ESTABLISHMENT.] The commissioner shall establish a training program for structurally unemployed workers in Minnesota under which individuals may be enrolled in an on-the-job training program, and an additional 1,000 individuals may be enrolled in classroom training in accordance with this subdivision. This subdivision does not limit or adversely affect the approved training provisions that apply to an individual under section 268.08, subdivision 1, clause (3). An individual approved under this subdivision is eligible for tuition aid under chapter 136A. The commissioner shall report to the legislature annually regarding the status of the training program under this subdivision.

(b) [APPROVAL OF TRAINING.] An individual's enrollment in a train-

ing course shall be approved for the purposes of this subdivision if the commissioner finds that:

(1) the individual is not unemployed due to the seasonal nature of the work or a temporary work shortage;

(2) the individual's separation from most recent employment was caused by job obsolescence, plant shutdown, regional decline in the individual's customary occupation, or industry slowdown;

(3) the individual has received a notice of layoff and is unlikely to return to work for that employer or in that occupation within the 12-month period immediately following the separation;

(4) reasonable and suitable work opportunities for which the individual is fitted by training, experience, and physical capabilities do not exist within the local labor market;

(5) the training course is designed to provide preparation for available employment within the local labor market or in an area to which the individual is willing to relocate;

(6) the training is conducted by an agency, education institution, or employing unit that has been approved by the commissioner of education or state board for vocational technical education or higher education coordinating board to conduct training programs; except that any agency, education institution, or employing unit that is not subject to regulation and approval by one of the above agencies may be approved by the commissioner if it is determined that the curriculum, facilities, staff, and other essentials are adequate to achieve the training objective;

(7) the training consists of a full course load, as defined by the institution, necessary to achieve the approved training objective, and the individual is making satisfactory progress in the course. The commissioner may require the training institution to periodically certify to the individual's attendance and progress.

(c) [ON-THE-JOB TRAINING.] An individual who meets the criteria set forth under paragraph (b) is eligible to participate in a full-time on-the-job training program if:

(1) the on-the-job training position is in an occupation for which the commissioner has determined a demand exists or will exist; in making this determination, the commissioner shall consider labor market information as contained in state and national occupational outlook publications, as well as other generally accepted authoritative sources with verifiable validity;

(2) the employer pays an hourly wage during training of at least the state minimum wage;

(3) the employer guarantees to provide at least 12 months of employment to the trainee after the completion of training at the prevailing area labor market wage for a trained individual in that occupation;

(4) the employer will not terminate the trainee during the period of training or guaranteed employment except for misconduct or demonstrated substandard performance;

(5) the employer has not in any way created an on-the-job training position

through a reduction in work force within the preceding six months.

(d) [TRAINING ALLOWANCE.] *During participation in an approved on-the-job training program, the trainee shall maintain both satisfactory progress and attendance. During the period of training specified in the agreement between the commissioner and the employer, individuals participating in an approved on-the-job training program shall be paid with respect to each week claimed during the benefit year and prior to exhaustion of a benefit in an amount equal to the weekly benefit amount, less the part of the earnings, including holiday pay, in excess of \$100. The benefit shall be computed by rounding down to the nearest dollar amount. Notwithstanding any other provision, an individual participating in on-the-job training on a full-time basis is not considered employed for purposes of benefit eligibility.*

(e) [EMPLOYER PENALTY.] *An employer who enters into an on-the-job training agreement with the commissioner and terminates the trainee during the training period in a manner other than provided in this subdivision shall repay 70 percent of the amount of unemployment insurance benefits paid to the individual while in the training program with that employer. If terminated during the 12-month period of guaranteed employment, the employer shall receive a proportional reduction in the amount it must repay. Penalties assessed under this paragraph shall be in addition to any other penalties provided for by this chapter and shall be subject to the collection provisions of sections 268.16 and 268.161. Penalties under this paragraph shall be paid to the commissioner and credited to the unemployment compensation fund.*

(f) [FUNDING.] *In arranging for training, existing federal and state financed job training service deliverers and Wagner-Peyser mechanisms and moneys must be utilized in the most efficient and effective manner.*

Sec. 13. Minnesota Statutes 1984, section 268.09, is amended by adding a subdivision to read:

Subd. 2a. An individual who has qualified for benefits under the alternative credit week requirement, as provided under section 268.07, subdivision 2, paragraph (a), and who is disqualified for benefits under subdivisions 1 and 2 of this section, other than for gross misconduct, shall be disqualified for waiting week credit and benefits. The disqualification shall continue until four weeks have elapsed following the separation or refusal of suitable work or reemployment and until the individual has worked for a minimum of 20 hours in each of four weeks in insured work.

Sec. 14. Minnesota Statutes 1984, section 268.10, subdivision 1, is amended to read:

Subdivision 1. [FILING.] *Claims for benefits shall be made in accordance with such regulations as the commissioner may prescribe. Each employer shall post and maintain printed statements of such regulations in places readily accessible to individuals in his service and shall make available to each such individual at the time he becomes unemployed, a printed statement of such regulations. Such printed statements shall be supplied by the commissioner to each employer without cost to him.*

(1) *Any employer upon separation of an employee from his employment for any reason which may result in disqualification for benefits under section 268.09, shall furnish to such employee a separation notice which shall pro-*

vide the employer's name, address, and employer account number as registered with the department, the employee's name and social security account number, the inclusive dates of his employment, and the reason for the separation. A copy of such separation notice shall be filed with the commissioner within seven days of such separation. The commissioner shall require each individual filing a claim for benefits to establish a benefit year to furnish the reason for separation from all employers in his base period.

(2) Upon the filing, by an individual, of a claim for benefits, the commissioner shall give notice to all such base period employers of the filing of such claim and request each such base period employer, within seven days after the mailing of such notice, to furnish the following information:

- (a) The total wage credits earned in the base period;
- (b) The number of credit weeks *or alternative credit weeks* which end within the base period;
- (c) The week ending dates for each calendar week within the base period in which the individual earned less than the amount required to make a credit week and the amount of earnings in each such week;
- (d) The reason for the separation or separations of such individual from the employ of the employer in the base period; and
- (e) Such employer's protest, if any, relating to the ineligibility or disqualification of such individual.

(3) If any base period employer, after the notice of filing of a claim and the request for wage and separation information has been duly mailed to his last known address, fails to file information as provided by items (a) through (e) of clause 2 of this subdivision within seven days, the commissioner shall:

(a) Determine the validity of an individual's claim based on the claimant's statements or any other available information. An employer shall be liable for a late filing fee of not less than \$5 nor more than \$25, as the commissioner may determine, to be paid to the department of economic security and credited to the contingent fund if he has failed without good cause to submit the wage and separation information as required in clause 2 of this subdivision within seven days after the request has been duly mailed to his last known address. In the absence of fraud, if a redetermination of validity of claim based on an employer's late report subsequently cancels or reduces the amount of benefits to which a claimant was entitled under the initial determination, the claimant shall not be required to make repayment to the fund of any benefits paid to him prior to such redetermination; and

(b) Determine any issue of disqualification raised by clause (1) or by an employer's late report. If an employer fails to file a separation notice within the time limits prescribed in clause (1), any relief from benefit charges provided by section 268.09, subdivision 1, clause (4), shall apply to weeks of unemployment beginning after the filing of the late report.

Sec. 15. Minnesota Statutes 1984, section 268.10, subdivision 2, is amended to read:

Subd. 2. [EXAMINATION OF CLAIMS; DETERMINATION; APPEAL.] (1) An official, designated by the commissioner, shall promptly examine each claim for benefits filed to establish a benefit year pursuant to this section, and, on the basis of the facts found, shall determine whether or not such claims are valid, and if valid, the weekly benefit amount payable, the maximum benefit amount payable during the benefit year, and the date the benefit year terminates, and this determination shall be known as the determination of validity. Notice of the determination of validity or any redetermination as provided for in clause (4) shall be promptly given the claimant and all other interested parties. If within the time limits for filing a protest an employer notifies the department that an individual's weekly benefit amount as determined under section 268.07 exceeds the individual's weekly wages earned with the employer, the individual's weekly benefit amount shall be the lesser of (1) the weekly benefit amount as determined under section 268.07, or (2) the weekly benefit amount which is 50 percent of the quotient derived by dividing the total wage credits earned in the individual's base period credit weeks or *alternative credit weeks* from all employers in insured work by the number of base period credit weeks or *alternative credit weeks*. If within the time specified for the filing of wage and separation information as provided in subdivision 1, clause (2), the employer makes an allegation of disqualification or raises an issue of the chargeability to his account of benefits that may be paid on such claim, if the claim is valid, the issue thereby raised shall be promptly determined by said official and a notification of the determination delivered or mailed to the claimant and the employer. If an initial determination or an appeal tribunal decision or the commissioner's decision awards benefits, the benefits shall be paid promptly regardless of the pendency of any appeal period or any appeal or other proceeding which may thereafter be taken. Except as provided in clause (6), if an appeal tribunal decision modifies or reverses an initial determination awarding benefits, or if a commissioner's decision modifies or reverses an appeal decision awarding benefits, any benefits paid under the award of such initial determination or appeal tribunal decision shall be deemed erroneous payments.

(2) At any time within 24 months from the date of the filing of a valid claim for benefits by an individual, an official of the department or any interested party or parties raises an issue of claimant's eligibility for benefits for any week or weeks in accordance with the requirements of the provisions of sections 268.03 to 268.24 or any official of the department or any interested party or parties or benefit year employer raises an issue of disqualification in accordance with the regulations of the commissioner, a determination shall be made thereon and a written notice thereof shall be given to the claimant and such other interested party or parties or benefit year employer. A determination issued under this clause which denies benefits for weeks for which the claimant has previously been paid benefits is an overpayment of those benefits subject to section 268.18.

(3) A determination issued pursuant to clauses (1) and (2) shall be final unless an appeal therefrom is filed by a claimant or employer within 15 days after the mailing of the notice of the determination to his last known address or personal delivery of the notice. Every notice of determination shall contain

a prominent statement indicating in clear language the method of appealing the determination, the time within which such an appeal must be made, and the consequences of not appealing the determination. A timely appeal from a determination of validity in which the issue is whether an employing unit is an employer within the meaning of this chapter or whether services performed for an employer constitute employment within the meaning of this chapter shall be subject to the provisions of section 268.12, subdivision 13.

(4) At any time within 24 months from the date of the filing of a valid claim for benefits by an individual, the commissioner on his own motion may reconsider a determination of validity made thereon and make a redetermination thereof if he finds that an error in computation or identity or the crediting of wage credits has occurred in connection therewith or if the determination was made as a result of a nondisclosure or misrepresentation of a material fact. A determination or redetermination issued under this clause which denies benefits for weeks for which the claimant has previously been paid benefits is an overpayment of those benefits subject to section 268.18.

(5) However, the commissioner may in his discretion refer any disputed claims directly to a referee for hearing and determination in accordance with the procedure outlined in subdivision 3 and the effect and status of such determination in such a case shall be the same as though the matter had been determined upon an appeal to the tribunal from an initial determination.

(6) If a referee's decision affirms an initial determination awarding benefits or the commissioner affirms an appeal tribunal decision awarding benefits, the decision, if finally reversed, shall not result in a disqualification and benefits paid shall neither be deemed overpaid nor shall they be considered in determining any individual employer's future contribution rate under section 268.06.

Sec. 16. Minnesota Statutes 1984, section 268.15, subdivision 3, is amended to read:

Subd. 3. [CONTINGENT ACCOUNT.] There is hereby created in the state treasury a special account, to be known as the economic security contingent account, which shall not lapse nor revert to any other fund. Such account shall consist of all moneys appropriated therefor by the legislature, all moneys in the form of interest and penalties collected pursuant to ~~section~~ sections 268.16 and 268.18, and all moneys received in the form of voluntary contributions to this account and interest thereon. All moneys in such account shall be supplemental to all federal moneys that would be available to the commissioner but for the existence of this account. Moneys in this account are hereby appropriated to the commissioner and shall be expended in accordance with the provisions of section 3.30, in connection with the administration of sections 268.03 to 268.24. *Commencing with the fiscal year beginning July 1, 1985, the commissioner is authorized to expend annually, in addition to any federal moneys and without reference to section 3.30, the sum of \$500,000, from available moneys in this fund which are derived from interest and penalties collected pursuant to sections 268.16 and 268.18 and moneys received in the form of voluntary payments and interest thereon, for the purpose of providing for: (1) the investigation of fraud on the part of any person in claiming or obtaining benefits under sections 268.03 to 268.24 or fraud on the part of any employer in attempting to avoid or reduce any con-*

tribution or other payment required from an employing unit under those sections; (2) determination of benefit overpayments and contribution underpayments for reasons other than fraud; (3) recovery of moneys due to the commissioner as a result of clauses (1) and (2); (4) the verification of work search efforts especially in areas with robust economies; and (5) those special services which are reasonably directed toward assisting the unemployed in returning to suitable work. Whenever the commissioner expends moneys from said contingent account for the proper and efficient administration of the Minnesota economic security law for which funds have not yet been made available by the federal government, such moneys so withdrawn from the contingent account shall be replaced as hereinafter provided. Upon the deposit in the economic security administration fund of moneys which are received in reimbursement of payments made as above provided for said contingent account, the commissioner shall certify to the state treasurer the amount of such reimbursement and thereupon the state treasurer shall transfer such amount from the economic security administration fund to said contingent account. All moneys in this account shall be deposited, administered, and disbursed in the same manner and under the same conditions and requirements as is provided by law for the other special accounts in the state treasury. The state treasurer shall be liable on his official bond for the faithful performance of his duties in connection with the economic security contingent account provided for herein. Notwithstanding anything to the contrary contained herein, on June 30 of each year, except 1982, all amounts in excess of \$300,000 in this account shall be paid over to the unemployment compensation fund established under section 268.05 and administered in accordance with the provisions set forth therein.

Sec. 17. [EFFECTIVE DATE.]

Sections 1, 2, 3, 4, 9, 10, 11, 13, 14, and 15 are effective for claims which establish a benefit year subsequent to January 1, 1986.

Sections 5, 6, and 7 are effective January 1, 1986.

Section 8 is effective July 1, 1985, except those provisions relating to alternative credit weeks which are effective for claims which establish a benefit year subsequent to January 1, 1986.

Section 12 is effective August 1, 1985, but is repealed January 1, 1989.

Section 16 is effective the day following final enactment."

Delete the title and insert:

"A bill for an act relating to unemployment compensation; regulating benefits and contribution rates; amending Minnesota Statutes 1984, sections 268.04, subdivisions 24, 29, and 30, and by adding a subdivision; 268.06, subdivisions 3a, 8, and 24; 268.07, subdivisions 2 and 2a; 268.071, subdivision 1; 268.08, subdivision 1, and by adding a subdivision; 268.09, by adding a subdivision; 268.10, subdivisions 1 and 2; and 268.15, subdivision 3."

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

MINORITY REPORT

We, the undersigned, members of the Committee on Employment, to

which was referred S.F. No. 41:

A bill for an act relating to unemployment compensation; regulating the payment, amount, and eligibility for benefits; setting employer contribution rates; amending Minnesota Statutes 1984, sections 268.04, subdivision 25; 268.06, subdivisions 3a, 6, and 8; 268.061; 268.07, subdivision 2.

As a minority report, do hereby report the same back with the recommendation that the committee report on the bill be amended as follows:

Delete everything after the enacting clause and insert:

"ARTICLE 1

UNEMPLOYMENT COMPENSATION

Section 1. Minnesota Statutes 1984, section 268.03, is amended to read:

268.03 [DECLARATION OF PUBLIC POLICY.]

As a guide to the interpretation and application of sections 268.03 to 268.24, the public policy of this state is declared to be as follows: Economic insecurity due to unemployment is a serious menace to the health, morals, and welfare of the people of this state. Involuntary unemployment is therefore a subject of general interest and concern which requires appropriate action by the legislature to prevent its spread and to lighten its burdens. This can be provided by encouraging employers to provide more stable employment and by the systematic accumulation of funds during periods of employment to provide benefits for periods of unemployment, thus maintaining purchasing power and limiting the serious social consequences of poor relief assistance. The legislature, therefore, declares that in its considered judgment the public good and the general welfare of the citizens of this state will be promoted by providing, under the police powers of the state for the compulsory setting aside of unemployment reserves to be used for the benefit of persons unemployed through no fault of their own establishment of an unemployment insurance fund. The reserves of the unemployment insurance fund are to be used to provide a temporary replacement of a portion of lost wages to individuals with a permanent attachment to the work force, who become involuntarily unemployed through no fault of their own, and who are actively seeking, and are willing and available to accept, suitable reemployment.

Sec. 2. Minnesota Statutes 1984, section 268.04, subdivision 25, is amended to read:

Subd. 25. [WAGES.] "Wages" means all remuneration for services, including commissions and bonuses, back pay as of the date of payment, and tips and gratuities paid to an employee by a customer of an employer and accounted for by the employee to the employer, and the cash value of all remuneration in any medium other than cash, except that such term shall not include:

(a) For the purpose of determining contributions payable under section 268.06, subdivision 2, that part of the remuneration which exceeds, for each calendar year, the greater of \$7,000 or that part of the remuneration which exceeds 60 percent of the average annual wage rounded to the nearest \$100 computed in accordance with the provisions of clause (f) \$10,300 for the cal-

endar year 1985; \$10,900 for the calendar year 1986; and \$11,400 for the calendar year 1987 and all calendar years thereafter, paid to an individual by an employer with respect to covered employment in this state, or with respect to employment under the unemployment compensation law of any other state during any calendar year paid to such individual by such covered employer or his predecessor during such calendar year; provided, that if the term "wages" as contained in the Federal Unemployment Tax Act is amended to include remuneration in excess of the amount required to be paid hereunder to an individual by an employer under the federal act for any calendar year, wages for the purposes of sections 268.03 to 268.24 shall include remuneration paid in a calendar year up to an amount equal to the dollar limitation specified in the Federal Unemployment Tax Act. For the purposes of this clause, the term "employment" shall include service constituting employment under any employment security law of another state or of the federal government;

(b) The amount of any payment made to, or on behalf of, an employee under a plan or system established by an employer which makes provision for his employees generally or for a class or classes of his employees (including any amount paid by an employer for insurance or annuities, or into a fund, to provide for any such payment), on account of (1) retirement or (2) sickness or accident disability or (3) medical and hospitalization expenses in connection with sickness or accident disability, or (4) death, provided the employee has not the option to receive, instead of provision for such death benefit, any part of such payment, or if such death benefit is insured, any part of the premium (or contributions to premiums) paid by his employer and has not the right, under the provisions of the plan or system or policy of insurance providing for such death benefit, to assign such benefit, or to receive a cash consideration in lieu of such benefit either upon his withdrawal from the plan or system providing for such benefit or upon termination of such plan or system or policy of insurance or of his employment with such employer;

(c) The payment by an employer (without deduction from the remuneration of the employee) (1) of the tax imposed upon an employee under section 3101 of the federal Internal Revenue Code, or (2) of any payment required from an employee under a state unemployment compensation law, with respect to remuneration paid to an employee for domestic service in a private home of the employer or for agricultural labor;

(d) Any payments made to a former employee during the period of active military service in the armed forces of the United States by such employer, whether legally required or not;

(e) Any payment made to, or on behalf of, an employee or his beneficiary (1) from or to a trust described in section 401(a) of the federal Internal Revenue Code which is exempt from tax under section 501(a) of such code at the time of such payment unless such payment is made to an employee of the trust as remuneration for services rendered as an employee and not as a beneficiary of the trust, or (2) under or to an annuity plan which, at the time of such payment is a plan described in section 403(a) of the federal Internal Revenue Code, or (3) under or to a bond purchase plan which, at the time of such payment, is a qualified bond purchase plan described in section 405(a) of the federal Internal Revenue Code;

(f) On or before July 1 of each year the commissioner shall determine the

average annual wage paid by employers subject to sections 268.03 to 268.24 in the following manner:

(1) The sum of the total monthly employment reported for the previous calendar year shall be divided by 12 to determine the average monthly employment;

(2) The sum of the total wages reported for the previous calendar year shall be divided by the average monthly employment to determine the average annual wage.

The average annual wage determined shall be effective for the calendar year next succeeding the determination.

Sec. 3. Minnesota Statutes 1984, section 268.04, subdivision 29, is amended to read:

Subd. 29. "Credit week" is any week for which wages or back pay, actually or constructively paid, wages overdue and delayed beyond the usual time of payment, and back pay by or from one or more employers to an employee for insured work equal or exceed 30 percent of the average weekly wage times the adult minimum wage in effect under section 177.24, subdivision 1, on December 31 of the year two years before the year in which the claim is made. The product shall be computed to the nearest whole dollar. On or before June 30 of each year the commissioner shall determine the average weekly wage paid by employers subject to sections 268.03 to 268.24 in the following manner:

(a) The sum of the total monthly employment reported for the previous calendar year shall be divided by 12 to determine the average monthly employment;

(b) The sum of the total wages reported for the previous calendar year shall be divided by the average monthly employment to determine the average annual wage; and

(c) The average annual wage shall be divided by 52 to determine the average weekly wage.

The average weekly wage as so determined computed to the nearest whole dollar shall apply to claims for benefits which establish a benefit year which begins subsequent to December 31 of the year of the computation.

Sec. 4. Minnesota Statutes 1984, section 268.06, subdivision 5, is amended to read:

Subd. 5. [BENEFITS CHARGED AS AND WHEN PAID.] Benefits paid to an individual pursuant to a valid claim shall be charged against the account of his employer as and when paid, except that benefits paid to an individual who earned base period wages for part-time employment shall not be charged to an employer that is liable for payments in lieu of contributions or to the experience rating account of an employer if the employer: (1) provided weekly base period part-time employment; (2) continues to provide weekly employment equal to at least 90 percent of the part-time employment provided in the base period; and (3) is an interested party because of the individual's loss of other employment.

For the purpose of this subdivision, an employer is deemed to satisfy clause

(2) if:

(a) *the weekly employment in the base period was on an on call as needed basis; and*

(b) *the employer continues to employ the individual on the same basis and provides employment substantially equal to the employment provided in the base period.*

The amount of benefits so chargeable against each base period employer's account shall bear the same ratio to the total benefits paid to an individual as the base period wage credits of the individual earned from such employer bear to the total amount of base period wage credits of the individual earned from all his base period employers.

In making computations under this provision, the amount of wage credits if not a multiple of \$1, shall be computed to the nearest multiple of \$1.

Benefits shall not be charged to an employer that is liable for payments in lieu of contributions or to the experience rating account of an employer for unemployment that is directly caused by a major natural disaster declared by the president pursuant to section 102(2) of the Disaster Relief Act of 1974 (42 United States Code 5122(2)), if the unemployed individual would have been eligible for disaster unemployment assistance with respect to that unemployment but for the individual's receipt of unemployment insurance benefits.

Sec. 5. Minnesota Statutes 1984, section 268.06, subdivision 8, is amended to read:

Subd. 8. [DETERMINATION OF CONTRIBUTION RATES.] For each calendar year the commissioner shall determine the contribution rate of each employer by adding the minimum rate to the experience ratio, except that if the ratio for the current calendar year increases or decreases the experience ratio for the preceding calendar year by more than one and one-half percentage points for 1982; and 2-1/2 percentage points for 1983 and each year thereafter, the increase or decrease for the current year shall be limited to one and one-half percentage points for 1982; and 2-1/2 percentage points for 1983 and each year thereafter, provided that a small business employer shall be eligible, upon application, for a reduction in the limitation to 1-1/2 percentage points for 1983 and each year thereafter. "Small business employer" for the purpose of this subdivision means an employer with an annual covered payroll of \$250,000 or less, or fewer than 20 employees in three of the four quarters ending June 30, of the previous calendar year.

The minimum rate for all employers shall be one percent if the amount in the unemployment compensation fund is less than \$80,000,000 on June 30 of the preceding calendar year; or nine-tenths of one percent if the fund is more than \$80,000,000 but less than \$90,000,000; or eight-tenths of one percent if the fund is more than \$90,000,000 but less than \$110,000,000; or seven-tenths of one percent if the fund is more than \$110,000,000 but less than \$130,000,000; or six-tenths of one percent if the fund is more than \$130,000,000 but less than \$150,000,000; or five-tenths of one percent if the fund is more than \$150,000,000 but less than \$170,000,000; or three-tenths of one percent if the fund is more than \$170,000,000 but less than \$200,000,000; or one-tenth of one percent if the fund is \$200,000,000 or

more; provided that no employer shall have a contribution rate of more than 7.5 percent.

For the purposes of this section the unemployment compensation fund shall not include any moneys advanced from the Federal Unemployment Account in the unemployment trust fund in accordance with Title XII of the Social Security Act, as amended. No employer first assigned an experience ratio in accordance with subdivision 6, shall have his contribution rate increased or decreased by more than one and one-half percentage points for 1982; and 2-1/2 percentage points for 1983 and each year thereafter over the contribution rate assigned for the preceding calendar year in accordance with subdivision 3a, provided that a small business employer shall be eligible, upon application, for a reduction in the limitation to 1-1/2 percentage points for 1983 and each year thereafter.

Sec. 6. Minnesota Statutes 1984, section 268.07, subdivision 2, is amended to read:

Subd. 2. [WEEKLY BENEFIT AMOUNT AND DURATION.] If the commissioner finds that an individual has earned 15 20, or more, credit weeks within the base period of employment in insured work with one or more employers, benefits shall be payable to such individual during his benefit year as follows:

(1) Weekly benefit amount shall be equal to 60 one percent of the first \$85, 40 percent of the next \$85 and 50 percent of the remainder of the average weekly wage of such individual individual's total base period wage credits. The amount so computed if not a whole dollar shall be rounded down to the next lower dollar amount. The maximum weekly benefit amount of claims for benefits which establish a benefit year subsequent to July 1, 1979 shall be 66-2/3 percent of the average weekly wage, except as provided in clause (d).

On or before June 30 of each year the commissioner shall determine the average weekly wage paid by employers subject to sections 268.03 to 268.24 in the following manner:

(a) The sum of the total monthly employment reported for the previous calendar year shall be divided by 12 to determine the average monthly employment.

(b) The sum of the total wages reported for the previous calendar year shall be divided by the average monthly employment to determine the average annual wage.

(c) The average annual wage shall be divided by 52 to determine the average weekly wage.

The maximum weekly benefit amount as so determined computed to the nearest whole dollar shall apply to claims for benefits which establish a benefit year which begins subsequent to June 30 of each year.

(d) The maximum weekly benefit amount for claims for benefits which establish a benefit year subsequent to June 30, 1982, and prior to July 1, 1983, shall be \$184.

The maximum weekly benefit amount for claims for benefits which establish a benefit year subsequent to June 30, 1983, and prior to July 1, 1984, shall be

\$191.

The minimum weekly benefit amount for claims for benefits which establish a benefit year subsequent to June 30, 1985, shall be \$56.

The maximum weekly benefit amount for claims for benefits which establish a benefit year subsequent to June 30, 1984, and prior to July 1, 1985, shall be \$198.

The maximum weekly benefit amount for claims for benefits which establish a benefit year subsequent to June 30, 1985, and prior to July 1, 1986, shall be \$200.

The maximum weekly benefit amount for claims for benefits which establish a benefit year subsequent to June 30, 1986, and prior to July 1, 1987, shall be \$208.

The maximum weekly benefit amount for claims for benefits which establish a benefit year subsequent to June 30, 1987, shall be \$216.

(2) An individual's maximum amount of regular benefits payable in a benefit year shall not exceed the lesser of (a) 26 times his weekly benefit amount or (b) $70\frac{66-2}{3}$ percent of the number of credit weeks earned by such an individual computed to the nearest whole week times his weekly benefit amount.

(3) Each eligible individual who is unemployed in any week shall be paid with respect to such week a benefit in an amount equal to his weekly benefit amount less that part of his earnings, including holiday pay, payable to him with respect to such week which is in excess of \$25 or \$200 for earnings from service in the national guard or a United States military reserve unit. Jury duty pay is not considered as earnings and shall not be deducted from benefits paid. Such benefit, if not a whole dollar amount shall be rounded down to the next lower dollar amount.

(4) The provisions of clauses (1) and (2) shall apply to claims for benefits which establish a benefit year subsequent to June 30, 1983.

Sec. 7. Minnesota Statutes 1984, section 268.07, subdivision 2a, is amended to read:

Subd. 2a. [~~EXCEPTION~~ SEASONALITY EXCEPTIONS.] Notwithstanding the provisions of subdivision 2, the following seasonality exceptions shall apply:

(a) If the commissioner finds that an individual has earned credit weeks in seasonal employment, benefits shall be payable only if the commissioner finds that the individual has earned ~~15~~ 20 credit weeks in employment which is not seasonal, in addition to any credit weeks in seasonal employment. For the purposes of this ~~subdivision~~ clause, "seasonal employment" means employment with a single employer in the recreation or tourist industry which is available with the employer for ~~15~~ 20 consecutive weeks or less each calendar year.

(b) If the commissioner finds that an individual has been paid for weeks of regular unemployment compensation benefits in the same calendar quarter in the previous two years: (1) regular benefits shall not be payable to that individual during that same calendar quarter for a number of weeks equal to the

mean number of weeks the individual received regular benefits during that calendar quarter in the previous two years; and (2) the individual's duration of regular benefits shall be reduced by the mean number of weeks the individual received regular benefits during that calendar quarter in the previous two years or the number of weeks left in the calendar quarter, whichever is less. The mean number of weeks the individual received regular benefits during that calendar quarter in the previous two years shall be computed by taking the total number of weeks the individual received regular benefits during that calendar quarter in the previous two years, dividing by two, and rounding up to the nearest whole number of weeks. For the purposes of this clause, the calendar quarter shall be based on calendar weeks with a 53rd calendar week periodically to adjust for leap year and deviation of the calendar weeks from the calendar year.

Sec. 8. [268.073] [STATE EXTENDED BENEFITS.]

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

(a) "State insured unemployment rate" means the percentage derived by dividing the average weekly number of individuals filing claims for regular benefits in this state under chapter 268 for weeks of unemployment with respect to the most recent 13 consecutive week period, as determined by the commissioner on the basis of his or her reports to the United States Secretary of Labor, by the average monthly employment covered under this law for the first four of the most recent six completed calendar quarters ending before the end of the 13-week period.

(b) "County insured unemployment rate" means the percentage derived by dividing the average weekly number of individuals, who reside in the given Minnesota county, filing claims for regular benefits in this state under chapter 268 for weeks of unemployment with respect to the most recent 13 consecutive week period, as determined by the commissioner on the basis of his or her reports to the United States Secretary of Labor, by the average monthly employment covered under this law, in the county, for the first four of the most recent six completed calendar quarters ending before the end of the 13-week period.

Subd. 2. [ELIGIBILITY AND AMOUNT.] In addition to all other benefits under this chapter, an individual shall be eligible for up to four weeks of state extended benefits each benefit year if:

(1) the individual has exhausted his or her regular benefits under section 268.07 and the individual has exhausted or is not eligible for federal extended benefits, federal supplemental benefits, or any other unemployment compensation benefits under federal or other state law;

(2) the individual resides in a county which has had within the eight-week period preceding the current calendar week, a county insured unemployment rate equal to twice the state insured unemployment rate; and

(3) the individual would be eligible for regular benefits under this chapter during the week in which he or she receives state extended benefits except that the individual has exhausted his or her regular benefits.

State extended benefits for a week shall be equal to the individual's regular

benefit amount under section 268.07.

Sec. 9. Minnesota Statutes 1984, section 268.08, subdivision 1, is amended to read:

Subdivision 1. [ELIGIBILITY CONDITIONS.] An individual shall be eligible to receive benefits with respect to any week of unemployment only if the commissioner finds that the individual:

(1) has registered for work at and thereafter has continued to report to an employment office, or agent of the office, in accordance with rules the commissioner may adopt; except that the commissioner may by rule waive or alter either or both of the requirements of this clause as to types of cases or situations with respect to which the commissioner finds that compliance with the requirements would be oppressive or would be inconsistent with the purposes of sections 268.03 to 268.24;

(2) has made a claim for benefits in accordance with rules as the commissioner may adopt; and

(3) was able to work and was available for work, and was actively seeking work. The individual's weekly benefit amount shall be reduced one-fifth for each day the individual is unable to work or is unavailable for work. Benefits shall not be denied by application of this clause to an individual who is in training with the approval of the commissioner or in training approved pursuant to section 236 of the Trade Act of 1974, as amended;

An individual is deemed unavailable for work with respect to any week which occurs in a period when the individual is a full-time student in attendance at, or on vacation from an established school, college or university unless a majority of the credit weeks earned in the base period were for services performed during weeks in which the student was attending school as a full-time student.

An individual serving as a juror shall be considered as available for work and actively seeking work on each day the individual is on jury duty.

(4) has been unemployed for a waiting period of one week during which the individual is otherwise eligible for benefits under sections 268.03 to 268.24. ~~However, payment for the waiting week shall be made to the individual after the individual has qualified for and been paid benefits for four weeks of unemployment in a benefit year which period of unemployment is terminated because of the individual's return to employment.~~ No individual is required to serve a waiting period of more than one week within the one year period subsequent to filing a valid claim and commencing with the week within which the valid claim was filed.

Sec. 10. Minnesota Statutes 1984, section 268.08, subdivision 3, is amended to read:

Subd. 3. [NOT ELIGIBLE.] An individual shall not be eligible to receive benefits for any week with respect to which he is receiving, has received, or has filed a claim for remuneration in an amount equal to or in excess of his weekly benefit amount in the form of

(1) termination, severance, or dismissal payment or wages in lieu of notice whether legally required or not; provided that if a termination, severance, or

dismissal payment is made in a lump sum, the employer may allocate such lump sum payment over a period equal to the lump sum divided by the employee's regular pay while employed by such employer; provided any such payment shall be applied for a period immediately following the last day of work but not to exceed 28 calendar days; or

(2) vacation allowance paid directly by the employer for a period of requested vacation, including vacation periods assigned by the employer under the provisions of a collective bargaining agreement, or uniform vacation shutdown; or

(3) compensation for loss of wages under the workers' compensation law of this state or any other state or under a similar law of the United States, or under other insurance or fund established and paid for by the employer except that this does not apply to an individual who is receiving temporary partial compensation pursuant to section 176.101, subdivision 3k; or

(4) 50 percent of the pension payments from any fund, annuity or insurance maintained or contributed to by a base period employer including the armed forces of the United States if the employee contributed to the fund, annuity or insurance and all of the pension payments if the employee did not contribute to the fund, annuity or insurance; or

(5) 50 percent of a primary insurance benefit under title II of the Social Security Act as amended, or similar old age benefits under any act of congress or this state or any other state.

Provided, that if such remuneration is less than the benefits which would otherwise be due under sections 268.03 to 268.24, he shall be entitled to receive for such week, if otherwise eligible, benefits reduced by the amount of such remuneration; provided, further, that if the appropriate agency of such other state or the federal government finally determines that he is not entitled to such benefits, this provision shall not apply. If the computation of reduced benefits, required by this subdivision, is not a whole dollar amount, it shall be rounded down to the next lower dollar amount.

Sec. 11. Minnesota Statutes 1984, section 268.09, subdivision 1, is amended to read:

Subdivision 1. [DISQUALIFYING CONDITIONS.] An individual separated from employment under clauses (1), (2), or (3) shall be disqualified for waiting week credit and benefits. For separations under clauses (1) and (2), the disqualification shall continue until ~~four~~ ten calendar weeks have elapsed following his separation and the individual has earned ~~four~~ ten times his weekly benefit amount in insured work.

(1) [VOLUNTARY LEAVE.] The individual voluntarily and without good cause attributable to the employer discontinued his employment with such employer. For the purpose of this clause, a separation from employment by reason of its temporary nature or for inability to pass a test or for inability to meet performance standards necessary for continuation of employment or based solely on a provision in a collective bargaining agreement by which an individual has vested discretionary authority in another to act in behalf of the individual shall not be deemed voluntary.

A separation shall be for good cause attributable to the employer if it occurs

as a consequence of sexual harassment. Sexual harassment means unwelcome sexual advances, requests for sexual favors, sexually motivated physical contact or other conduct or communication of a sexual nature when: (1) the employee's submission to such conduct or communication is made a term or condition of the employment, (2) the employee's submission to or rejection of such conduct or communication is the basis for decisions affecting employment, or (3) such conduct or communication has the purpose or effect of substantially interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment and the employer knows or should know of the existence of the harassment and fails to take timely and appropriate action.

(2) [DISCHARGE FOR MISCONDUCT.] The individual was discharged for misconduct, not amounting to gross misconduct connected with his work or for misconduct which interferes with and adversely affects his employment.

An individual shall not be disqualified under clauses (1) and (2) of this subdivision under any of the following conditions:

(a) The individual voluntarily discontinued his employment to accept work offering substantially better conditions of work or substantially higher wages or both;

(b) The individual is separated from employment due to his own serious illness provided that such individual has made reasonable efforts to retain his employment;

An individual who is separated from his employment due to his illness of chemical dependency which has been professionally diagnosed or for which he has voluntarily submitted to treatment and who fails to make consistent efforts to maintain the treatment he knows or has been professionally advised is necessary to control that illness has not made reasonable efforts to retain his employment.

(c) The individual accepts work from a base period employer which involves a change in his location of work so that said work would not have been deemed to be suitable work under the provisions of subdivision 2 and within a period of 13 weeks from the commencement of said work voluntarily discontinues his employment due to reasons which would have caused the work to be unsuitable under the provision of said subdivision 2;

(d) The individual left employment because he had reached mandatory retirement age and was 65 years of age or older;

(e) The individual is terminated by his employer because he gave notice of intention to terminate employment within 30 days. This exception shall be effective only through the calendar week which includes the date of intended termination, provided that this exception shall not result in the payment of benefits for any week for which he receives his normal wage or salary which is equal to or greater than his weekly benefit amount;

(f) The individual is separated from employment due to the completion of an apprenticeship program, or segment thereof, approved pursuant to chapter 178;

(g) The individual voluntarily leaves part-time employment with a base

period employer while continuing full-time employment if the individual attempted to return to part-time employment after being separated from the full-time employment, and if substantially the same part-time employment with the base period employer was not available for the individual.

(3) [DISCHARGE FOR GROSS MISCONDUCT.] The individual was discharged for gross misconduct connected with his work or gross misconduct which interferes with and adversely affects his employment. For a separation under this clause, the commissioner shall impose a total disqualification for the benefit year and cancel all of the wage credits from the last employer from whom he was discharged for gross misconduct connected with his work.

For the purpose of this clause "gross misconduct" is defined as misconduct involving assault and battery or the malicious destruction of property or arson or sabotage or embezzlement or any other act, including theft, the commission of which amounts to a felony or gross misdemeanor. For an employee of a health care facility, gross misconduct also includes misconduct involving an act of patient or resident abuse as defined in section 626.557, subdivision 2, clause (d).

If an individual is convicted of a felony or gross misdemeanor for the same act or acts of misconduct for which the individual was discharged, the misconduct is conclusively presumed to be gross misconduct if it was connected with his work.

(4) [LIMITED OR NO CHARGE OF BENEFITS.] Benefits paid subsequent to an individual's separation under any of the foregoing clauses, excepting clauses (2)(c) and (2)(e), shall not be used as a factor in determining the future contribution rate of the employer from whose employment such individual separated.

Benefits paid subsequent to an individual's failure, without good cause, to accept an offer of suitable re-employment shall not be used as a factor in determining the future contribution rate of the employer whose offer of re-employment he failed to accept or whose offer of re-employment was refused solely due to the distance of the available work from his residence, the individual's own serious illness or his other employment at the time of the offer.

(5) An individual who was employed by an employer shall not be disqualified for benefits under this subdivision for any acts or omissions occurring after his separation from employment with the employer.

(6) [DISCIPLINARY SUSPENSIONS.] An individual shall be disqualified for waiting week credit and benefits for the duration of any disciplinary suspension of 30 days or less resulting from his own misconduct. Disciplinary suspensions of more than 30 days shall constitute a discharge from employment.

Sec. 12. Minnesota Statutes 1984, section 268.09, subdivision 2, is amended to read:

Subd. 2. [FAILURE TO APPLY FOR OR ACCEPT SUITABLE WORK OR RE-EMPLOYMENT.] An individual shall be disqualified for waiting week credit and benefits during the week of occurrence and until ~~four~~ ten calendar weeks have elapsed following his refusal or failure and he has

earned ~~four~~ ten times his weekly benefit amount in insured work if the commissioner finds that he has failed, without good cause, either to apply for available, suitable work of which he was advised by the employment office, or the commissioner or to accept suitable work when offered him, or to return to his customary self-employment (if any) when so directed by the commissioner, or to accept a base period employer's offer of re-employment offering substantially the same or better hourly wages and conditions of work as were previously provided by that employer in his base period.

(a) In determining whether or not any work is suitable for an individual, the commissioner shall consider the degree of risk involved to his health, safety, and morals, his physical fitness and prior training, his experience, his length of unemployment and prospects of securing local work in his customary occupation, ~~and the distance of the available work from his residence, and how the work's wage compares with the wage the individual received at his previous employment.~~ With respect to the work's wage, the work shall be deemed suitable if the work is otherwise suitable and the work's wage is at least: 85 percent of the individual's former wage when the individual has not received more than six weeks of benefits during his or her current period of unemployment; 75 percent of the individual's former wage when the individual has received more than six weeks of benefits, but not more than 14 weeks during his or her current period of unemployment; and 65 percent of the individual's former wage when the individual has received more than 14 weeks of benefits during his or her current period of unemployment.

(b) Notwithstanding any other provisions of sections 268.03 to 268.24, no work shall be deemed suitable, and benefits shall not be denied thereunder to any otherwise eligible individual for refusing to accept new work under any of the following conditions:

(1) if the position offered is vacant due directly to a strike, lockout, or other labor dispute;

(2) if the wages, hours, or other conditions of the work offered are substantially less favorable to the individual than those prevailing for similar work in the locality;

(3) if as a condition of being employed the individual would be required to join a union or to resign from or refrain from joining any bona fide labor organization;

(4) if the individual is in training with the approval of the commissioner.

Sec. 13. [EFFECTIVE DATE.]

Section 8 of this article is effective October 1, 1985. Clause (b) of section 7 of this article shall apply to claims made on or after July 1, 1987.

Sec. 14. [REPEALER.]

Minnesota Statutes 1984, section 268.04, subdivision 30, is repealed.

ARTICLE 2

TRANSFER OF AUTHORITY TO OFFICE OF ADMINISTRATIVE HEARINGS

Section 1. [TRANSFER FROM DEPARTMENT OF ECONOMIC SE-

CURITY.]

Subdivision 1. [PURPOSE.] It is the purpose and intent of this article to transfer all unemployment compensation hearing responsibilities and related functions except for appeal hearings before the commissioner or his or her authorized representative from the department of economic security to the office of administrative hearings.

Subd. 2. [PERSONNEL; EQUIPMENT.] All unemployment compensation referees at the department of economic security are transferred to the office of administrative hearings. Notwithstanding any laws to the contrary, all unemployment compensation referees employed by the department of economic security at the time of this transfer are eligible for appointment as unemployment judges within the office of administrative hearings, and shall be appointed as such on transfer. All personnel and positions at the department of economic security presently providing support to the hearing related functions transferred pursuant to this article, including those involved in the scheduling of hearings, processing, and mailing of hearing notices, preparation and serving of referees' decisions or correspondence, travel coordination, accounting, answering of telephones, and preparation of transcripts are transferred to the office of administrative hearings.

All equipment and supplies used solely by the transferred personnel in the performance of their duties are transferred to the office of administrative hearings.

Subd. 3. [COOPERATION.] Commencing with the passage and signing of this act, the commissioner, the commissioners of administration, finance, and employee relations and the chief administrative law judge shall cooperate in assuring a smooth transfer of the referees and related personnel and equipment in order to carry out the purposes of this article. The commissioner shall provide office space at the department of economic security for the chief administrative law judge to use prior to the transfer in order to complete a review of the existing hearing system and personnel prior to the effective date of the transfer. The commissioner of administration, after consultation with the commissioner of economic security, the commissioner of finance, and the chief administrative law judge, shall determine the appropriate location of office space for the transferred personnel. The commissioner shall continue to provide space for the conduct of hearings in the same facilities and locations which are presently utilized for that purpose.

Subd. 4. [RULES.] The chief administrative law judge may make emergency rules for the purpose of adopting procedural rules for unemployment compensation hearings. The rules shall not conflict with any provisions of chapter 268 and shall comply with any applicable federal laws, rules, or regulations.

Subd. 5. [TIMELINESS.] To satisfy United States Department of Labor funding requirements the office of administrative hearings shall meet or exceed timeliness standards under federal regulation in the conduct of unemployment compensation hearings.

Sec. 2. Minnesota Statutes 1984, section 14.03, subdivision 2, is amended to read:

Subd. 2. [CONTESTED CASE PROCEDURE.] The contested case pro-

cedures of the administrative procedure act provided in sections 14.57 to 14.70 do not apply to (a) the Minnesota municipal board, (b) the commissioner of corrections, (c) the unemployment insurance program *and, except for those hearings held by an administrative law judge of the office of administrative hearings, (d) the social security disability determination program in the department of economic security, (e) the director of mediation services, (f) the workers' compensation division in the department of labor and industry, (g) the workers' compensation court of appeals, (h) the board of pardons, or (i) the public employment relations board.*

Sec. 3. Minnesota Statutes 1984, section 14.51, is amended to read:

14.51 [PROCEDURAL RULES FOR HEARINGS.]

The chief administrative law judge shall adopt rules to govern the procedural conduct of all hearings, relating to both rule adoption, amendment, suspension or repeal hearings, contested case hearings, *and workers' compensation hearings, and unemployment compensation hearings. Temporary Emergency* rulemaking authority is granted to the chief administrative law judge for the purpose of *implementing Laws 1981, Chapter 346, Sections 2 to 6, 103 to 122, 127 to 135, and 144 the adoption of procedural rules for unemployment compensation hearings.* The procedural rules for hearings shall be binding upon all agencies and shall supersede any other agency procedural rules with which they may be in conflict. The procedural rules for hearings shall include in addition to normal procedural matters provisions relating to recessing and reconvening new hearings when the proposed final rule of an agency is substantially different from that which was proposed at the public hearing. The procedural rules shall establish a procedure whereby the proposed final rule of an agency shall be reviewed by the chief administrative law judge to determine whether or not a new hearing is required because of substantial changes or failure of the agency to meet the requirements of sections 14.13 to 14.18. Upon his own initiative or upon written request of an interested party, the chief administrative law judge may issue a subpoena for the attendance of a witness or the production of books, papers, records or other documents as are material to the matter being heard. The subpoenas shall be enforceable through the district court in the district in which the subpoena is issued.

Sec. 4. Minnesota Statutes 1984, section 14.53, is amended to read:

14.53 [COSTS ASSESSED.]

In consultation with the commissioner of administration the chief administrative law judge shall assess agencies the cost of services rendered to them in the conduct of hearings. All agencies shall include in their budgets provisions for such assessments. *The chief administrative law judge shall assess all costs associated with unemployment compensation hearings to the department of economic security, but shall be limited to funds provided to the department for such purposes by the federal government.*

Sec. 5. Minnesota Statutes 1984, section 43A.18, subdivision 4, is amended to read:

Subd. 4. [PLANS NOT ESTABLISHED BUT APPROVED BY COMMISSIONER.] Notwithstanding any other law to the contrary, total compensation for employees listed in this subdivision shall be set by appointing

authorities within the limits of compensation plans that have been approved by the commissioner before becoming effective.

(a) Total compensation for employees who are not covered by a collective bargaining agreement in the offices of the governor, attorney general, secretary of state, state auditor and state treasurer shall be determined by the governor, attorney general, secretary of state, state auditor and state treasurer, respectively.

(b) Total compensation for unclassified positions pursuant to section 43A.08, subdivision 1, clause (h), in the higher education coordinating board, and in the state board of vocational technical education shall be determined by the state university board and the state board for community colleges, the higher education coordinating board, and the state board of vocational technical education, respectively.

(c) Total compensation for classified administrative law judges and *unemployment judges* in the office of administrative hearings shall be determined by the chief administrative law judge.

Sec. 6. Minnesota Statutes 1984, section 179A.10, subdivision 1, is amended to read:

Subdivision 1. [EXCLUSIONS.] The commissioner of employee relations shall meet and negotiate with the exclusive representative of each of the units specified in this section. The units provided in this section are the only appropriate units for executive branch state employees. The following employees shall be excluded from any appropriate unit:

(1) the positions and classes of positions in the classified and unclassified services defined as managerial by the commissioner of employee relations in accordance with section 43A.18, subdivision 3, and so designated in the official state compensation schedules;

(2) unclassified positions in the state university system and the community college system defined as managerial by their respective boards;

(3) positions of physician employees compensated under section 43A.17, subdivision 4;

(4) positions of all unclassified employees appointed by a constitutional officer;

(5) positions in the bureau of mediation services and the public employment relations board;

(6) positions of employees whose classification is pilot or chief pilot;

(7) administrative law judge, *unemployment judge*, and compensation judge positions in the office of administrative hearings; and

(8) positions of all confidential employees.

Sec. 7. Minnesota Statutes 1984, section 268.06, subdivision 18, is amended to read:

Subd. 18. [NOTICE TO EMPLOYER.] The commissioner shall at least twice each year notify each employer of the benefits as determined by the department which have been charged to his account subsequent to the last

notice. Unless reviewed in the manner hereinafter provided, charges set forth in such notice, or as modified by a redetermination, a decision of a ~~referee~~ *an unemployment judge*, or the commissioner, shall be final and shall be used in determining the contribution rates for all years in which the charges occur within the employer's experience period and shall not be subject to collateral attack by way of review of a rate determination, application for adjustment or refund, or otherwise.

Sec. 8. Minnesota Statutes 1984, section 268.06, subdivision 19, is amended to read:

Subd. 19. [NOTICE OF RATE.] The commissioner shall mail to each employer notice of his rate of contributions as determined for any calendar year pursuant to this section. Such notice shall contain the contribution rate, factors used in determining the individual employer's experience rating, and such other information as the commissioner may prescribe. Unless reviewed in the manner hereinafter provided, the rate as determined or as modified by a redetermination, a decision of a ~~referee~~ *an unemployment judge*, or the commissioner shall be final except for fraud and shall be the rate upon which contributions shall be computed for the calendar year for which such rate was determined, and shall not be subject to collateral attack for any errors, clerical or otherwise, whether by way of claim for adjustment or refund, or otherwise. If the legislature changes any of the factors used to determine the contribution rate of any employer for any year subsequent to the original mailing of such notice for the year, the earlier notice shall be void. The notice based on the new factors shall be deemed to be the only notice of rate of contributions for that year and shall be subject to the same finality, redetermination and review procedures as provided above.

Sec. 9. Minnesota Statutes 1984, section 268.06, subdivision 20, is amended to read:

Subd. 20. [PROTEST, REVIEW, REDETERMINATION, APPEAL.] A review of the charges made to an employer's account as set forth in the notice of charges referred to in subdivision 18 and a review of an employer's contribution rate as set forth in the notice of his rate for any calendar year as provided in subdivision 19, may be had by the employer if he files with the commissioner a written protest setting forth his reasons therefor within 30 days from the date of the mailing of the notice of charges or contribution rate to him. The date shall appear on the notice. Upon receipt of the protest, the commissioner shall refer the matter to an official designated by him to review the charges appearing on the notice appealed from or the computations of the protesting employer's rate, as the case may be, to determine whether or not there has been any clerical error or error in computation in either case. The official shall either affirm or make a redetermination rectifying the charges or rate as the case may be, and a notice of the affirmation or redetermination shall immediately be mailed to the employer. If the employer is not satisfied with the affirmation or redetermination, he may appeal by filing a notice with the department within ten days after the date of mailing appearing upon the redetermination. Upon the receipt of the appeal, the commissioner shall refer the matter to a ~~referee~~ *the office of administrative hearings* for a hearing and after opportunity for a fair hearing, the ~~referee~~ *unemployment judge* shall affirm, modify or set aside the original determination with its affirmation or the redetermination, as appears just and proper. The commissioner may at

any time upon his own motion correct any clerical error of the department resulting in charges against an employer's account or any error in the computation of an employer's contribution rate. The ~~referee~~ *unemployment judge* may order the consolidation of two or more appeals whenever, in his judgment, consolidation will not be prejudicial to any interested party. At any hearing a written report of any employee of the department which has been authenticated shall be admissible in evidence. Appeals from the decision of the ~~referee~~ *unemployment judge* shall be provided by section 268.10, subdivision 5.

Sec. 10. Minnesota Statutes 1984, section 268.10, subdivision 2, is amended to read:

Subd. 2. [EXAMINATION OF CLAIMS; DETERMINATION; APPEAL.] (1) An official, designated by the commissioner, shall promptly examine each claim for benefits filed to establish a benefit year pursuant to this section, and, on the basis of the facts found, shall determine whether or not such claims are valid, and if valid, the weekly benefit amount payable, the maximum benefit amount payable during the benefit year, and the date the benefit year terminates, and this determination shall be known as the determination of validity. Notice of the determination of validity or any redetermination as provided for in clause (4) shall be promptly given the claimant and all other interested parties. If within the time limits for filing a protest an employer notifies the department that an individual's weekly benefit amount as determined under section 268.07 exceeds the individual's weekly wages earned with the employer, the individual's weekly benefit amount shall be the lesser of (1) the weekly benefit amount as determined under section 268.07, or (2) the weekly benefit amount which is 50 percent of the quotient derived by dividing the total wage credits earned in the individual's base period credit weeks from all employers in insured work by the number of base period credit weeks. If within the time specified for the filing of wage and separation information as provided in subdivision 1, clause (2), the employer makes an allegation of disqualification or raises an issue of the chargeability to his account of benefits that may be paid on such claim, if the claim is valid, the issue thereby raised shall be promptly determined by said official and a notification of the determination delivered or mailed to the claimant and the employer. If an initial determination or an ~~appeal tribunal~~ *unemployment judge* decision or the commissioner's decision awards benefits, the benefits shall be paid promptly regardless of the pendency of any appeal period or any appeal or other proceeding which may thereafter be taken. Except as provided in clause (6), if an ~~appeal tribunal~~ *unemployment judge* decision modifies or reverses an initial determination awarding benefits, or if a commissioner's decision modifies or reverses an ~~appeal unemployment judge~~ *unemployment judge* decision awarding benefits, any benefits paid under the award of such initial determination or ~~appeal tribunal~~ *unemployment judge* decision shall be deemed erroneous payments.

(2) At any time within 24 months from the date of the filing of a valid claim for benefits by an individual, an official of the department or any interested party or parties raises an issue of claimant's eligibility for benefits for any week or weeks in accordance with the requirements of the provisions of sections 268.03 to 268.24 or any official of the department or any interested party or parties or benefit year employer raises an issue of disqualification in

accordance with the regulations of the commissioner, a determination shall be made thereon and a written notice thereof shall be given to the claimant and such other interested party or parties or benefit year employer. A determination issued under this clause which denies benefits for weeks for which the claimant has previously been paid benefits is an overpayment of those benefits subject to section 268.18.

(3) A determination issued pursuant to clauses (1) and (2) shall be final unless an appeal therefrom is filed by a claimant or employer within 15 days after the mailing of the notice of the determination to his last known address or personal delivery of the notice. Every notice of determination shall contain a prominent statement indicating in clear language the method of appealing the determination, the time within which such an appeal must be made, and the consequences of not appealing the determination. A timely appeal from a determination of validity in which the issue is whether an employing unit is an employer within the meaning of this chapter or whether services performed for an employer constitute employment within the meaning of this chapter shall be subject to the provisions of section 268.12, subdivision 13.

(4) At any time within 24 months from the date of the filing of a valid claim for benefits by an individual, the commissioner on his own motion may reconsider a determination of validity made thereon and make a redetermination thereof if he finds that an error in computation or identity or the crediting of wage credits has occurred in connection therewith or if the determination was made as a result of a nondisclosure or misrepresentation of a material fact. A determination or redetermination issued under this clause which denies benefits for weeks for which the claimant has previously been paid benefits is an overpayment of those benefits subject to section 268.18.

(5) However, the commissioner may in his discretion refer any disputed claims directly to a ~~referee~~ *the office of administrative hearings* for hearing and determination in accordance with the procedure outlined in subdivision 3 and the effect and status of such determination in such a case shall be the same as though the matter had been determined upon an appeal to the ~~tribunal~~ *unemployment judge* from an initial determination.

(6) If a ~~referee's~~ *an unemployment judge's* decision affirms an initial determination awarding benefits or the commissioner affirms an ~~appeal tribunal~~ *unemployment judge* decision awarding benefits, the decision, if finally reversed, shall not result in a disqualification and benefits paid shall neither be deemed overpaid nor shall they be considered in determining any individual employer's future contribution rate under section 268.06.

Sec. 11. Minnesota Statutes 1984, section 268.10, subdivision 3, is amended to read:

Subd. 3. [APPEAL; HEARING.] *Upon receipt of an appeal from an initial determination made under subdivision 2, the commissioner shall immediately forward the appeal and all necessary documents to the chief administrative law judge for assignment of an unemployment judge to hear the case and the scheduling of a date, time, and place for the hearing. Unless an appeal is withdrawn, the date for hearing before a referee an unemployment judge shall be set and notice of the hearing shall be mailed to the last known address of all interested parties at least ten days prior to the date set for the hearing. The notice shall be mailed by the office of administrative hearings.*

The hearing may be conducted by means of a conference telephone call except that the appellant may request that the hearing be conducted in person. The hearing shall be a trial de novo, and, upon the evidence presented, the ~~referee~~ *unemployment judge* shall affirm, modify, or set aside the initial determination. Where the same or substantially similar evidence is relevant and material to the issues in appeals by more than one individual or in appeals by one individual with respect to two or more weeks of unemployment, the appeals may be consolidated into one hearing *pursuant to the procedural rules adopted by the chief hearing examiner*. The ~~referee~~ *unemployment judge* shall exclude from any consolidated hearing the appeal of an individual who may be prejudiced because of the consolidation. ~~A referee~~ *An unemployment judge* shall not hear any appeal in which the ~~referee~~ *unemployment judge* has a direct interest. The parties and the commissioner shall be notified of the ~~referee's~~ *unemployment judge's* decision and the reason for it. The ~~referee's~~ *unemployment judge's* decision is deemed to be the final decision unless a further appeal is initiated pursuant to subdivision 5.

Sec. 12. Minnesota Statutes 1984, section 268.10, subdivision 4, is amended to read:

Subd. 4. [~~REFEREES~~ *TRANSCRIPTS; REVIEW OF DECISIONS.*] In order to assure the prompt disposition of all claims for benefits, the commissioner shall appoint one or more impartial referees. The commissioner shall by rule adopt a procedure by which referees hear and decide disputed claims, subject to appeal to the commissioner. No person shall participate on behalf of the commissioner in any case in which that person is an interested party. The commissioner may designate alternates to serve in the absence or disqualification of a referee. *The office of administrative hearings shall cause a transcript to be prepared of all cases heard by an unemployment judge from which an appeal is made to the commissioner, or in any case to be reviewed by motion of the commissioner where the commissioner requests a transcript.* There shall be no charges, fees, transcript costs, or other cost imposed upon the employee in prosecuting an appeal. All decisions of ~~referees~~ *unemployment judges* shall be made available to the public in accordance with rules the commissioner may prescribe, except that names of interested parties may be deleted.

Sec. 13. Minnesota Statutes 1984, section 268.10, subdivision 5, is amended to read:

Subd. 5. [~~REVIEW BY COMMISSIONER.~~] Within 30 days after mailing or personal delivery of the notice of a ~~referee's~~ *an unemployment judge's* decision to the claimant or employer at the last known address, a party may appeal from the decision and obtain a review of it by the commissioner or an authorized representative. *An appeal from an unemployment judge's decision must be filed with the chief administrative law judge. Upon receipt of an appeal, the chief administrative law judge shall notify the commissioner of the appeal and shall cause a transcript of the hearing to be prepared. Upon completion of the transcript, the entire file shall be transmitted to the commissioner.* The commissioner within the same period of time may on the commissioner's own motion order a review of a decision. Upon review, the commissioner or authorized representative may affirm, modify, or set aside any finding of fact or decision, or both, of the ~~referee~~ *unemployment judge* on the basis of the evidence previously submitted in the case, or remand the

matter back to the ~~referee~~ *unemployment judge* for the taking of additional evidence and new findings and decision based on all of the evidence before the ~~referee~~ *unemployment judge*. Notice of all hearings on review shall be given to all interested parties in the same manner as provided for by subdivision 3. ~~The commissioner or authorized representative may remove to himself or herself or transfer to another referee the proceedings on any claim pending before a referee. Any proceedings removed to the commissioner or authorized representative shall be heard upon notice in accordance with the requirements of subdivision 3.~~ The department of economic security shall mail to all interested parties a notice of the filing of and a copy of the findings and decision of the commissioner or his representative.

Sec. 14. Minnesota Statutes 1984, section 268.10, subdivision 6, is amended to read:

Subd. 6. [COMMISSIONER.] The manner in which disputed claims are presented, the reports required from the claimant and from employers, and the conduct of ~~hearings and appeals~~ shall be in accordance with the rules adopted by the commissioner ~~for determining the rights of the parties, whether or not the regulations.~~ *Rules relating to the conduct of hearings before unemployment judges shall be adopted by the chief administrative law judge. The rules of the commissioner and the chief administrative law judge need not conform to common law or statutory rules of evidence and other technical rules of procedure.* A full and complete record shall be kept of all proceedings in connection with a disputed claim. All testimony at any hearing shall be recorded, but need not be transcribed unless the disputed claim is further appealed.

Sec. 15. Minnesota Statutes 1984, section 268.10, subdivision 9, is amended to read:

Subd. 9. [REPRESENTATION BY ATTORNEY.] In any proceeding under these sections before a ~~referee~~ *an unemployment judge* or the commissioner, a party may be represented by an agent or attorney, but no individual claiming benefits shall be charged fees of any kind in a proceeding before a ~~referee~~ *an unemployment judge*, the commissioner, commissioner's representatives, or by any court or any officers thereof. Any individual claiming benefits in any proceedings before the commissioner or his representatives or a court may be represented by counsel or other duly authorized agent, except that said agent in any court proceedings under these sections, must be an attorney at law; but no counsel shall either charge or receive for the services more than an amount approved by the commissioner and no fees shall be collected from an individual claiming benefits by any agent unless he is an attorney at law.

Sec. 16. Minnesota Statutes 1984, section 268.12, subdivision 8, is amended to read:

Subd. 8. [RECORDS; REPORTS.] (1) Each employing unit shall keep true and accurate work records for such periods of time and containing such information as the commissioner may prescribe. Such records shall be open to inspection, audit, and verification, and be subject to being copied by any authorized representative of the commissioner at any reasonable time and as often as may be necessary. The commissioner, ~~appeal referee~~ *unemployment judge*, or any other duly authorized representative of the commissioner, may

require from any employing unit any sworn or unsworn reports, with respect to persons employed by it, which the commissioner, ~~appeal referee unemployment judge~~, or any other duly authorized representative of the commissioner deems necessary for the effective administration of sections 268.03 to 268.24, provided that quarterly contribution and wage report forms shall include the employee's name, social security number, and total wages paid to the employee.

(2) The commissioner may cause to be made such summaries, compilations, photographs, duplications, or reproductions of any records, reports, or transcripts thereof as he may deem advisable for the effective and economical preservation of the information contained therein, and such summaries, compilations, photographs, duplications or reproductions, duly authenticated, shall be admissible in any proceeding under sections 268.03 to 268.24, if the original record or records would have been admissible therein. Notwithstanding any restrictions contained in section 16B.50, except restrictions as to quantity, the commissioner is hereby authorized to duplicate, on equipment furnished by the federal government or purchased with funds furnished for that purpose by the federal government, records, reports, summaries, compilations, instructions, determinations, or any other written matter pertaining to the administration of the Minnesota economic security law.

(3) Notwithstanding any inconsistent provisions elsewhere, the commissioner may provide for the destruction or disposition of any records, reports, transcripts, or reproductions thereof, or other papers in his custody, which are more than two years old, the preservation of which is no longer necessary for the establishment of contribution liability or benefit rights or for any purpose necessary to the proper administration of sections 268.03 to 268.24, including any required audit thereof, provided, that the commissioner may provide for the destruction or disposition of any record, report, or transcript, or other paper in his custody which has been photographed, duplicated, or reproduced in the manner provided in clause (2).

(4) Notwithstanding the provisions of the Minnesota State Archives Act the commissioner shall with the approval of the legislative auditor destroy all benefit checks and benefit check authorization cards that are more than two years old and no person shall make any demand, bring any suit or other proceeding to recover from the state of Minnesota any sum alleged to be due him on any claim for benefits after the expiration of two years from the date of filing such claim.

Sec. 17. Minnesota Statutes 1984, section 268.12, subdivision 9, is amended to read:

Subd. 9. [TESTIMONIAL POWERS.] (1) In the discharge of the duties imposed by sections 268.03 to 268.24, the commissioner, ~~appeal referee unemployment judge~~, or any duly authorized representative of the commissioner, shall have power to administer oaths and affirmations, take depositions, certify to official acts, and issue subpoenas to compel the attendance of witnesses and the production of books, papers, correspondence, memoranda, and other records deemed necessary as evidence in connection with a disputed claim or the administration of these sections;

(2) Witnesses, other than interested parties or officers and employees of an

employing unit which is an interested party, subpoenaed pursuant to this subdivision or sections 268.03 to 268.24, shall be allowed fees the same as witness fees in civil actions in district court, which fees need not be paid in advance of the time of giving of testimony, and such fees of witnesses so subpoenaed shall be deemed part of the expense of administering these sections;

(3) In case of contumacy by, or refusal to obey, a subpoena issued to any person, any court of this state within the jurisdiction of which the inquiry is carried on or within the jurisdiction of which such person guilty of contumacy or refusal to obey is found or resides or transacts business, upon application by the commissioner, or ~~referee unemployment judge~~, or any duly authorized representative of the commissioner, shall have jurisdiction to issue to such person an order requiring such person to appear before the commissioner, ~~the chairman of an appeal tribunal, referee unemployment judge~~, or any duly authorized representative of the commissioner, there to produce evidence if so ordered or there to give testimony relative to the matter under investigation or in question; and any failure to obey such order of the court may be punished by the court as a contempt thereof.

Sec. 18. Minnesota Statutes 1984, section 268.12, subdivision 10, is amended to read:

Subd. 10. [SELF-INCRIMINATION.] No person shall be excused from attending and testifying or from producing books, papers, correspondence, memoranda, and other records before the commissioner, ~~the chairman of an appeal tribunal, referee unemployment judge~~, or any duly authorized representative of the commissioner, or in obedience to the subpoena of any of them in any cause or proceeding before the commissioner, ~~an appeal tribunal, referee unemployment judge~~, or any duly authorized representative of the commissioner on the grounds that the testimony or evidence, documentary or otherwise, required of him may tend to incriminate him or subject him to a penalty or forfeiture; but no individual shall be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter, or thing concerning which he is compelled, after having claimed his privilege against self-incrimination, to testify or produce evidence, documentary or otherwise, except that such individual so testifying shall not be exempt from prosecution and punishment for perjury committed in so testifying.

Sec. 19. Minnesota Statutes 1984, section 268.12, subdivision 13, is amended to read:

Subd. 13. [DETERMINATIONS.] (1) An official, designated by the commissioner, upon his own motion or upon application of an employing unit, shall determine if an employing unit is an employer within the meaning of this chapter or as to whether services performed for it constitute employment within the meaning of this chapter, and shall notify the employing unit of the determination. The determination shall be final unless the employing unit, within 30 days after the mailing of notice of the determination to the employing unit's last known address, files a written appeal from it.

(2) ~~The commissioner shall designate one or more referees to conduct hearings on appeals~~ Upon receipt of an appeal under clause (1), the commissioner shall refer the matter to the office of administrative hearings for a hearing. The employing unit and any claimant whose filed claim for benefits may be

affected by a determination issued under clause (1) shall be interested parties to an appeal. The ~~referee~~ *unemployment judge* shall fix a time and place within this state for the hearing and give interested parties written notice of it, by mail, not less than ten days prior to the time of the hearing. In the discharge of the duties imposed by this subdivision, the ~~referee~~ *unemployment judge* may administer oaths and affirmations, take depositions, certify to official acts, and issue subpoenas to compel the attendance of witnesses and the production of books, papers, correspondence, memoranda, and other records deemed necessary as evidence in connection with the subject matter of the hearing. The written report of any employee of the department of economic security, made in the regular course of the performance of the employee's duties, shall be competent evidence of the facts contained in it and shall be prima facie correct, unless refuted by other credible evidence.

(3) Upon the conclusion of the hearing, the ~~referee~~ *unemployment judge* shall serve upon the interested parties by mail findings of fact and decision. The decision of the ~~referee~~ *unemployment judge*, together with his findings of fact and reasons in support of them, is final unless an interested party, within 30 days after the mailing of a copy of it to the interested parties' last known addresses, files an appeal with the ~~commissioner~~ *chief administrative law judge*, or unless the commissioner, within 30 days after mailing of the decision, on his own motion orders the matter certified to him for review. Appeal from and review by the commissioner of the decision of the ~~referee~~ *unemployment judge* shall be in the manner provided by rule. The commissioner may without further hearing affirm, modify, or set aside the findings of fact or decision, or both, of the ~~referee~~ *unemployment judge* on the basis of the evidence previously submitted in the case, or direct the taking of additional evidence. The commissioner may disregard the findings of fact of the ~~referee~~ *unemployment judge* and examine the testimony taken and make any findings of fact as the evidence taken before the ~~referee~~ *unemployment judge* may, in the judgment of the commissioner, require, and make any decision as the facts found by him require. The commissioner shall notify the employing unit of his findings and decision by mail, mailed to the interested parties' last known addresses. The decision of the commissioner is final unless judicial review of it is sought as provided by this subdivision. Any interested party to a proceeding before the commissioner may obtain a transcript of the testimony taken before the ~~referee~~ *unemployment judge* upon payment to the commissioner of the cost of the transcript at the rate of ten cents per 100 words.

(4) The court of appeals may, by writ of certiorari to the commissioner, review all questions of law and fact presented by the record in accordance with chapter 14. The commissioner shall not be required to certify the record to the court unless the party commencing the proceedings for review pays to the commissioner the cost of certification of the record at the rate of ten cents per 100 words less any amount previously paid by the party for a transcript. The commissioner shall, upon receipt of the payment, prepare and certify to the court a true and correct typewritten copy of all matters contained in the record. The costs collected by the commissioner shall be deposited in the economic security administration fund provided for in section 268.15.

(5) A final decision of the commissioner or referee, in the absence of appeal, is conclusive for all the purposes of sections 268.03 to 268.24 except as

otherwise provided, and, together with the records therein made, shall be admissible in any subsequent judicial proceeding involving liability for contributions. A final decision of the commissioner or referee may be introduced in any proceeding involving a claim for benefits.

(6) In the event a final decision of the commissioner or ~~referee~~ *unemployment judge* determines the amount of contributions due under sections 268.03 to 268.24, then, if the amount, together with interest and penalties, is not paid within 30 days after the decision, the provisions of section 268.161 shall apply. The commissioner shall proceed thereunder, substituting a certified copy of the final decision in place of the contribution report.

Sec. 20. Minnesota Statutes 1984, section 268.18, subdivision 1, is amended to read:

Subdivision 1. [ERRONEOUS PAYMENTS.] Any claimant for benefits who, by reason of his own mistake or through the error of any individual engaged in the administration of sections 268.03 to 268.24 or because of a determination or redetermination issued pursuant to section 268.10, subdivision 2, has received any sum as benefits to which he was not entitled under these sections, shall promptly return such benefits in cash to the nearest office of the Minnesota department of economic security. If such claimant fails to return such benefits, the department of economic security shall, as soon as it discovers such erroneous payment, determine the amount thereof and notify said individual to return the same. Unless the claimant files a written appeal with the department of economic security within 15 days after the mailing of the notice of determination to his last known address or personal delivery of the notice, the determination shall become final. If the claimant files an appeal with the department in writing within the time aforesaid the matter shall be set for hearing before a ~~referee of the department~~ *an unemployment judge of the office of administrative hearings* and heard as other benefit matters are heard in accordance with section 268.10 with the same rights of review as outlined for benefit cases in that section. The commissioner of the department of economic security is hereby authorized to deduct from any future benefits payable to the claimant under these sections in either the current or any subsequent benefit year an amount equivalent to the overpayment determined or the overpayment may be collected without interest by civil action in the name of the commissioner. If a claimant has been overpaid benefits under the law of another state and that state certifies to the department the facts involved and that the individual is liable under its law to repay the benefits and requests the department to recover the overpayment, the commissioner is authorized to deduct from future benefits payable to the claimant in either the current or any subsequent benefit year an amount equivalent to the amount of overpayment determined by that state. Benefits paid for weeks more than three years prior to the discovery of error are not erroneous payments.

Sec. 21. Minnesota Statutes 1984, section 268.18, subdivision 2, is amended to read:

Subd. 2. [FRAUD.] Any claimant who files a claim for or receives benefits by knowingly and willfully misrepresenting or misstating any material fact or by knowingly and willfully failing to disclose any material fact which would make him ineligible for benefits under sections 268.03 to 268.24 is guilty of

fraud. After the discovery of facts by the commissioner indicating fraud in claiming or obtaining benefits under sections 268.03 to 268.24, he is hereby authorized to make a determination that the claimant was ineligible for each week with reference to which benefits were claimed or obtained by fraud for the amount as was in excess of what the claimant would have been entitled to had he not made the fraudulent statements or failed to disclose any material facts. The commissioner also may disqualify an individual from benefits for one to 52 weeks in which the claimant is otherwise eligible for benefits following the week in which the fraud was determined. A disqualification imposed for fraud shall not be removed by subsequent insured work or the expiration of a benefit year but shall not apply to any week more than 104 weeks after the week in which the fraud was determined. The claimant shall promptly repay in cash to the department of economic security any benefits fraudulently obtained. Unless the claimant files a written appeal with the department of economic security within 15 days after the mailing of the notice of determination to his last known address or personal delivery of the notice, the determination shall become final. If the claimant appeals from the determination within the time above specified the matter shall be referred to a referee an unemployment judge for a hearing as in other benefit cases and thereafter the procedure for review shall be the same as set forth in section 268.10. The commissioner is hereby authorized to deduct from future benefits payable to the claimant in either the current or any subsequent benefit year an amount equivalent to the amount of overpayment determined or the overpayment may be collected without interest by civil action in the name of the commissioner. If a claimant has been overpaid benefits under the law of another state and that state certifies to the department the facts involved and that the individual is liable to repay the benefits and requests the department to recover the overpayment, the commissioner is authorized to deduct from future benefits payable to the claimant in either the current or any subsequent benefit year an amount equivalent to the amount of overpayment determined by that state. A determination of fraud may be made at any time.

Sec. 22. [EFFECTIVE DATE.]

Article 2 is effective October 1, 1985."

Delete the title and insert:

"A bill for an act relating to unemployment compensation; altering the public policy statement; changing the taxable wage base; defining credit week; providing for employer charging; increasing the eligibility requirement; eliminating certain tax rate limitations; changing the weekly benefit amount; capping the maximum weekly benefit; providing for the duration of benefits; increasing the duration of benefits for claimants in counties with high unemployment; providing for seasonal employees; making the waiting week nonreimbursable; amending the benefit offset for severance pay; increasing the period of time and earnings necessary for requalification after disqualification; changing the definition of suitable work; transferring duties to the office of administrative hearings; amending Minnesota Statutes 1984, sections 14.03, subdivision 2; 14.51; 14.53; 43A.18, subdivision 4; 179A.10, subdivision 1; 268.03; 268.04, subdivisions 25 and 29; 268.06, subdivisions 5, 8, 18, 19, and 20; 268.07, subdivisions 2 and 2a; 268.08, subdivisions 1 and 3; 268.09, subdivisions 1 and 2; 268.10, subdivisions 2, 3, 4, 5, 6, and 9; 268.12, subdivisions 8, 9, 10, and 13; and 268.18, subdivi-

sions 1 and 2; proposing coding for new law in Minnesota Statutes, chapter 268; repealing Minnesota Statutes 1984, section 268.04, subdivision 30."

And when so amended the bill do pass.

(Signed) Nancy Brataas, William V. Belanger, Jr., Jim Gustafson, Jim Ramstad

Mr. Moe, R.D. from the Committee on Rules and Administration, to which was referred

H.F. No. 191 for comparison with companion Senate File, reports the following House File was found not identical with companion Senate File as follows:

GENERAL ORDERS		CONSENT CALENDAR		CALENDAR	
H.F. No.	S.F. No.	H.F. No.	S.F. No.	H.F. No.	S.F. No.
191	445				

Pursuant to Rule 49, the Committee on Rules and Administration recommends that H.F. No. 191 be amended as follows:

Delete all the language after the enacting clause of H.F. No. 191 and insert the language after the enacting clause of S.F. No. 445, the first engrossment; further, delete the title of H.F. No. 191 and insert the title of S.F. No. 445, the first engrossment.

And when so amended H.F. No. 191 will be identical to S.F. No. 445, and further recommends that H.F. No. 191 be given its second reading and substituted for S.F. No. 445, and that the Senate File be indefinitely postponed.

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. Amendments adopted. Report adopted.

Mr. Pehler from the Committee on Education, to which were referred the following appointments as reported in the Journal for January 31, 1985:

MINNESOTA HIGHER EDUCATION FACILITIES AUTHORITY
Earl Herring

STATE BOARD FOR COMMUNITY COLLEGES
Franklin W. Iossi
Toyse A. Kyle
Rebecca L. Sawyer

STATE BOARD OF EDUCATION
Lloyd Swenson

Reports the same back with the recommendation that the appointments be confirmed.

Mr. Moe, R.D. moved that the foregoing committee report be laid on the table. The motion prevailed.

Mr. Pehler from the Committee on Education, to which was referred the following appointment as reported in the Journal for February 25, 1985:

MINNESOTA HIGHER EDUCATION FACILITIES AUTHORITY
Carol A. Blomberg

Reports the same back with the recommendation that the appointment be confirmed.

Mr. Moe, R.D. moved that the foregoing committee report be laid on the table. The motion prevailed.

Mr. Pehler from the Committee on Education, to which was referred the following appointment as reported in the Journal for February 28, 1985:

MINNESOTA HIGHER EDUCATION FACILITIES AUTHORITY
Kathryn Jarvinen

Reports the same back with the recommendation that the appointment be confirmed.

Mr. Moe, R.D. moved that the foregoing committee report be laid on the table. The motion prevailed.

Mr. Pehler from the Committee on Education, to which were referred the following appointments as reported in the Journal for March 19, 1985:

COUNCIL ON QUALITY EDUCATION

Mary E. Berg
Daren Gislason
Sherry Roed Munyon
Moiria Boyne Rummel

Reports the same back with the recommendation that the appointments be confirmed.

Mr. Moe, R.D. moved that the foregoing committee report be laid on the table. The motion prevailed.

Mr. Pehler from the Committee on Education, to which were referred the following appointments as reported in the Journal for April 9, 1985:

STATE BOARD OF EDUCATION

Eunice Johnson
Marjorie Johnson
Thomas R. Lindquist
Douglas Wallace

Reports the same back with the recommendation that the appointments be confirmed.

Mr. Moe, R.D. moved that the foregoing committee report be laid on the table. The motion prevailed.

SECOND READING OF SENATE BILLS

S.F. Nos. 1225, 806, 1159, 607 and 41 were read the second time.

SECOND READING OF HOUSE BILLS

H.F. Nos. 282, 729, 440 and 191 were read the second time.

MOTIONS AND RESOLUTIONS

Mr. Purfeerst moved that his name be stricken as a co-author to S.F. No. 5.

The motion prevailed.

Mrs. Adkins moved that the name of Ms. Peterson, D.C. be added as a co-author to S.F. No. 589. The motion prevailed.

Mr. Taylor moved that the name of Mr. Wegscheid be added as a co-author to S.F. No. 1484. The motion prevailed.

Mr. Johnson, D.E. introduced—

Senate Resolution No. 72: A Senate resolution congratulating Major General James G. Sieben of the Minnesota National Guard for being awarded the Royal Order of Saint Olaf by King Olaf V of Norway.

Referred to the Committee on Rules and Administration.

Mr. Taylor moved that Senate Resolution No. 31 be withdrawn from the Committee on Rules and Administration for immediate consideration.

CALL OF THE SENATE

Mr. Laidig imposed a call of the Senate. The Sergeant at Arms was instructed to bring in the absent members.

The question recurred on the motion of Mr. Taylor.

The roll was called, and there were yeas 24 and nays 41, as follows:

Those who voted in the affirmative were:

Anderson	Brataas	Kamrath	McQuaid	Renneke
Belanger	Frederickson	Knaak	Mehrkens	Sieloff
Benson	Gustafson	Knutson	Olson	Storm
Berg	Isackson	Kronebusch	Peterson, D.L.	Taylor
Bernhagen	Johnson, D.E.	Laidig	Ramstad	

Those who voted in the negative were:

Adkins	Dieterich	Lessard	Peterson, D.C.	Stumpf
Berglin	Frank	Luther	Peterson, R.W.	Vega
Bertram	Freeman	Merriam	Petty	Waldorf
Chmielewski	Hughes	Moe, D.M.	Pogemiller	Wegscheid
Dahl	Johnson, D.J.	Moe, R.D.	Purfeerst	Willet
Davis	Jude	Nelson	Reichgott	
DeCramer	Kroening	Novak	Samuelson	
Dicklich	Langseth	Pehler	Solon	
Diessner	Lantry	Peterson, C.C.	Spear	

The motion did not prevail.

RECONSIDERATION

Mrs. Brataas moved that the vote whereby the report from the Committee on Employment on S.F. No. 41 was adopted April 23, 1985, be now reconsidered.

CALL OF THE SENATE

Mrs. Brataas imposed a call of the Senate. The Sergeant at Arms was instructed to bring in the absent members.

The question recurred on the motion of Mrs. Brataas.

The roll was called, and there were yeas 25 and nays 33, as follows:

Those who voted in the affirmative were:

Anderson	Brataas	Johnson, D.E.	Laidig	Ramstad
Belanger	Frederick	Kamrath	McQuaid	Renneke
Benson	Frederickson	Knaak	Mehrkins	Sieloff
Berg	Gustafson	Knutson	Olson	Storm
Bernhagen	Isackson	Kronebusch	Peterson, D.L.	Taylor

Those who voted in the negative were:

Berglin	Freeman	Luther	Peterson, C.C.	Solon
Chmielewski	Hughes	Merriam	Peterson, D.C.	Spear
Davis	Johnson, D.J.	Moe, D.M.	Peterson, R.W.	Vega
Dicklich	Jude	Moe, R.D.	Petty	Waldorf
Diessner	Kroening	Nelson	Pogemiller	Willet
Dieterich	Lantry	Novak	Reichgott	
Frank	Lessard	Pehler	Samuelson	

The motion did not prevail.

MOTIONS AND RESOLUTIONS - CONTINUED

Mr. Davis moved that S.F. No. 996 be withdrawn from the Committee on Local and Urban Government and re-referred to the Committee on Taxes and Tax Laws. The motion prevailed.

Mr. Hughes moved that H.F. No. 450 be withdrawn from the Committee on Taxes and Tax Laws and re-referred to the Committee on Finance. The motion prevailed.

Pursuant to Rule 10, Mr. Moe, R.D., Chairman of the Subcommittee on Bill Scheduling, designated the General Orders Calendar a Special Orders Calendar to be heard immediately.

SPECIAL ORDER

H.F. No. 320: A bill for an act relating to the city of Roseville; increasing the total number of on-sale liquor licenses.

Was read the third time and placed on its final passage.

The question was taken on the passage of the bill.

The roll was called, and there were yeas 54 and nays 1, as follows:

Those who voted in the affirmative were:

Adkins	Dicklich	Knaak	Moe, R.D.	Reichgott
Anderson	Diessner	Knutson	Novak	Samuelson
Belanger	Frederick	Kroening	Olson	Solon
Benson	Frederickson	Laidig	Pehler	Spear
Berg	Freeman	Langseth	Peterson, D.C.	Storm
Berglin	Gustafson	Lantry	Peterson, D.L.	Stumpf
Bernhagen	Hughes	Lessard	Peterson, R.W.	Taylor
Bertram	Isackson	Luther	Petty	Vega
Chmielewski	Johnson, D.E.	McQuaid	Pogemiller	Waldorf
Davis	Jude	Mehrkins	Purfeerst	Wegscheid
DeCramer	Kamrath	Merriam	Ramstad	

Mr. Frank voted in the negative.

So the bill passed and its title was agreed to.

SPECIAL ORDER

H.F. No. 604: A bill for an act relating to agriculture; eliminating license requirement for fur farmers; establishing a registration system; providing definitions; defining agricultural products and pursuits related to fur farming; proposing coding for new law in Minnesota Statutes, chapter 17; repealing Minnesota Statutes 1984, section 17.35.

Was read the third time and placed on its final passage.

The question was taken on the passage of the bill.

The roll was called, and there were yeas 56 and nays 0, as follows:

Those who voted in the affirmative were:

Adkins	Frank	Kroening	Peterson, C.C.	Solon
Anderson	Frederick	Kronebusch	Peterson, D.C.	Spear
Belanger	Frederickson	Lantry	Peterson, D.L.	Storm
Benson	Freeman	Lessard	Peterson, R.W.	Stumpf
Berg	Gustafson	Luther	Petty	Taylor
Berglin	Hughes	McQuaid	Pogemiller	Vega
Bertram	Isackson	Mehrkins	Purfeerst	Wegscheid
Chmielewski	Johnson, D.E.	Merriam	Ramstad	Willet
Davis	Johnson, D.J.	Moe, R.D.	Reichgott	
DeCramer	Jude	Nelson	Renneke	
Dicklich	Knaak	Novak	Samuelson	
Dieterich	Knutson	Pehler	Sieloff	

So the bill passed and its title was agreed to.

SPECIAL ORDER

H.F. No. 230: A bill for an act relating to state lands; authorizing the sale of certain surplus state land in Dakota county to the city of Hastings.

Was read the third time and placed on its final passage.

The question was taken on the passage of the bill.

The roll was called, and there were yeas 62 and nays 0, as follows:

Those who voted in the affirmative were:

Adkins	Diessner	Kroening	Novak	Sieloff
Anderson	Dieterich	Kronebusch	Olson	Solon
Belanger	Frank	Laidig	Peterson, C.C.	Spear
Benson	Frederickson	Langseth	Peterson, D.C.	Storm
Berg	Freeman	Lantry	Peterson, D.L.	Stumpf
Berglin	Gustafson	Lessard	Peterson, R.W.	Taylor
Bernhagen	Hughes	Luther	Petty	Vega
Bertram	Isackson	McQuaid	Pogemiller	Waldorf
Chmielewski	Johnson, D.J.	Mehrkins	Purfeerst	Wegscheid
Dahl	Jude	Merriam	Ramstad	Willet
Davis	Kamrath	Moe, D.M.	Reichgott	
DeCramer	Knaak	Moe, R.D.	Renneke	
Dicklich	Knutson	Nelson	Samuelson	

So the bill passed and its title was agreed to.

SPECIAL ORDER

H.F. No. 183: A bill for an act relating to commerce; modifying the finance

charge on certain open end credit sales; amending Minnesota Statutes 1984, section 334.16, subdivision 1.

Mr. Berg moved to amend H.F. No. 183, as amended pursuant to Rule 49, adopted by the Senate March 28, 1985, as follows:

(The text of the amended House File is identical to S.F. No. 131.)

Page 2, line 1, reinstate the stricken language

Page 2, line 2, reinstate everything before the stricken "by"

Page 2, line 4, reinstate the stricken period

Amend the title as follows:

Page 1, line 3, delete "certain"

CALL OF THE SENATE

Mr. Kroening imposed a call of the Senate for the vote on the Berg amendment. The Sergeant at Arms was instructed to bring in the absent members.

The question recurred on the Berg amendment.

Mr. Solon moved that those not voting be excused from voting. The motion prevailed.

The roll was called, and there were yeas 23 and nays 42, as follows:

Those who voted in the affirmative were:

Adkins	Dicklich	Jude	Nelson	Stumpf
Berg	Dieterich	Kroening	Novak	Vega
Berglin	Frank	Luther	Peterson, D.C.	Willet
Chmielewski	Hughes	Merriam	Pogemiller	
Davis	Johnson, D.J.	Moe, D.M.	Samuelson	

Those who voted in the negative were:

Anderson	Frederick	Kronebusch	Peterson, C.C.	Solon
Belanger	Frederickson	Laidig	Peterson, D.L.	Spear
Benson	Freeman	Langseth	Peterson, R.W.	Storm
Bernhagen	Gustafson	Lantry	Petty	Taylor
Bertram	Isackson	Lessard	Purfeerst	Waldorf
Brataas	Johnson, D.E.	McQuaid	Ramstad	Wegscheid
Dahl	Kamrath	Mehrkens	Reichgott	
DeCramer	Knaak	Olson	Renneke	
Diessner	Knutson	Pehler	Sieloff	

The motion did not prevail. So the amendment was not adopted.

Mr. Luther moved to amend H.F. No. 183, as amended pursuant to Rule 49, adopted by the Senate March 28, 1985, as follows:

(The text of the amended House File is identical to S.F. No. 131.)

Page 2, reinstate lines 1 and 2

Page 2, line 3, reinstate "any"

Page 2, line 4, reinstate the period and before the period insert "issuer whose credit card is issued primarily for the purpose of purchasing motor

fuels and related products and whose gross annual national sales exceeds \$10 billion"

Mr. Peterson, R.W. moved to amend the Luther amendment to H.F. No. 183, as follows:

Page 1, line 11, delete "*exceeds*" and insert "*exceed*"

The motion prevailed. So the amendment to the amendment was adopted.

The question recurred on the Luther amendment, as amended.

The roll was called, and there were yeas 37 and nays 27, as follows:

Those who voted in the affirmative were:

Adkins	Diessner	Kroening	Pehler	Solon
Berg	Dieterich	Lantry	Peterson, C.C.	Spear
Berglin	Frank	Lessard	Peterson, D.C.	Stumpf
Bertram	Frederickson	Luther	Peterson, D.L.	Vega
Chmielewski	Freeman	Moe, D.M.	Pogemiller	Willet
Dahl	Hughes	Moe, R.D.	Purfeerst	
Davis	Johnson, D.J.	Nelson	Reichgott	
Dicklich	Knaak	Novak	Samuelson	

Those who voted in the negative were:

Anderson	Frederick	Knutson	Olson	Storm
Belanger	Gustafson	Kronebusch	Peterson, R.W.	Taylor
Benson	Isackson	Laidig	Petty	Wegscheid
Bernhagen	Johnson, D.E.	Langseth	Ramstad	
Brataas	Jude	McQuaid	Renneke	
DeCramer	Kamrath	Mehrkins	Sieloff	

The motion prevailed. So the Luther amendment, as amended, was adopted.

Mr. Luther then moved to amend H.F. No. 183, as amended pursuant to Rule 49, adopted by the Senate March 28, 1985, as follows:

(The text of the amended House File is identical to S.F. No. 131.)

Page 2, line 1, reinstate the stricken "(c)"

Page 2, line 4, after the stricken "dollars" insert "*Retailers must give adequate notice to open end consumer credit customers before any higher interest rate is applied. Accompanying credit statements must not suggest that the Minnesota legislature required retailers to raise interest rates. The accompanying material must make clear that the increase affects only the maximum allowable interest rate*" and reinstate the stricken period

Amend the title as follows:

Page 1, line 3, after the semicolon, insert "providing for notice of increased interest rates;"

The question was taken on the adoption of the amendment.

The roll was called, and there were yeas 40 and nays 25, as follows:

Those who voted in the affirmative were:

Adkins	Dicklich	Johnson, D.J.	Novak	Purfeerst
Anderson	Diessner	Jude	Pehler	Reichgott
Berg	Dieterich	Kroening	Peterson, C.C.	Samuelson
Berglin	Frank	Lantry	Peterson, D.C.	Solon
Bertram	Frederickson	Lessard	Peterson, D.L.	Spear
Dahl	Freeman	Luther	Peterson, R.W.	Stumpf
Davis	Gustafson	Moe, R.D.	Petty	Vega
DeCramer	Hughes	Nelson	Pogemiller	Willet

Those who voted in the negative were:

Belanger	Frederick	Knutson	Mehrkens	Renneke
Benson	Isackson	Kronebusch	Merriam	Sieloff
Bernhagen	Johnson, D.E.	Laidig	Moe, D.M.	Storm
Brataas	Kamrath	Langseth	Olson	Taylor
Chmielewski	Knaak	McQuaid	Ramstad	Wegscheid

The motion prevailed. So the amendment was adopted.

H.F. No. 183 was read the third time, as amended, and placed on its final passage.

The question was taken on the passage of the bill, as amended.

The roll was called, and there were yeas 37 and nays 29, as follows:

Those who voted in the affirmative were:

Anderson	Frederickson	Laidig	Peterson, C.C.	Solon
Belanger	Gustafson	Langseth	Peterson, D.L.	Spear
Benson	Isackson	Lessard	Peterson, R.W.	Storm
Bernhagen	Johnson, D.E.	McQuaid	Petty	Taylor
Bertram	Kamrath	Mehrkens	Purfeerst	Wegscheid
Brataas	Knaak	Moe, R.D.	Ramstad	
DeCramer	Knutson	Olson	Renneke	
Frederick	Kronebusch	Pehler	Sieloff	

Those who voted in the negative were:

Adkins	Dicklich	Johnson, D.J.	Moe, D.M.	Samuelson
Berg	Diessner	Jude	Nelson	Stumpf
Berglin	Dieterich	Kroening	Novak	Vega
Chmielewski	Frank	Lantry	Peterson, D.C.	Waldorf
Dahl	Freeman	Luther	Pogemiller	Willet
Davis	Hughes	Merriam	Reichgott	

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

SPECIAL ORDER

S.F. No. 581: A bill for an act relating to commerce; authorizing certain investments in obligations of or guaranteed by the United States and certain other authorized securities; amending Minnesota Statutes 1984, sections 48.61, by adding a subdivision; 475.66, subdivision 3; and 501.125, by adding a subdivision.

Mr. Sieloff moved to amend S.F. No. 581 as follows:

Page 3, after line 21, insert:

"Sec. 4. Minnesota Statutes 1984, section 501.66, subdivision 6, is amended to read:

Subd. 6. The trustee may invest and reinvest trust assets in any property or

any undivided interest therein wherever located, including but not limited to bonds, debentures, notes, secured or unsecured, stocks of corporations, whether preferred or common, *mutual funds*, real estate or improvements thereon, or any interest therein, oil and mineral leases or royalty or similar interests and interests in trusts, including investment trusts and common trust funds maintained by a corporate trustee, contracts which insure the life of a person who is or may become a trust beneficiary, and any such investments may be made, regardless of any lack of diversification."

Renumber the sections in sequence and correct internal references

Amend the title as follows:

Page 1, line 6, delete "and"

Page 1, line 7, before the period, insert "; and 501.66, subdivision 6"

The motion prevailed. So the amendment was adopted.

S.F. No. 581 was read the third time, as amended, and placed on its final passage.

The question was taken on the passage of the bill, as amended.

The roll was called, and there were yeas 54 and nays 1, as follows:

Those who voted in the affirmative were:

Adkins	DeCramer	Jude	Novak	Reichgott
Anderson	Dicklich	Kamrath	Olson	Renneke
Belanger	Dieterich	Knaak	Pehler	Samuelson
Benson	Frank	Knutson	Peterson, C.C.	Sieloff
Berg	Frederick	Kronebusch	Peterson, D.C.	Spear
Berglin	Frederickson	Laidig	Peterson, D.L.	Storm
Bernhagen	Freeman	Lessard	Peterson, R.W.	Stumpf
Bertram	Gustafson	McQuaid	Petty	Taylor
Brataas	Hughes	Mehrkens	Pogemiller	Wegscheid
Chmielewski	Isackson	Moe, R.D.	Purfeerst	Willet
Davis	Johnson, D.E.	Nelson	Ramstad	

Mr. Merriam voted in the negative.

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

SPECIAL ORDER

H.F. No. 831: A bill for an act relating to crimes; prescribing the powers of the governor and the commissioner of corrections with respect to extradition under treaty; amending Minnesota Statutes 1984, section 243.515.

Was read the third time and placed on its final passage.

The question was taken on the passage of the bill.

The roll was called, and there were yeas 60 and nays 0, as follows:

Those who voted in the affirmative were:

Adkins	Dicklich	Knaak	Moe, D.M.	Purfeerst
Anderson	Diessner	Knutson	Moe, R.D.	Ramstad
Belanger	Dieterich	Kroening	Nelson	Renneke
Benson	Frank	Kronebusch	Novak	Samuelson
Berg	Frederick	Laidig	Olson	Sieloff
Berglin	Frederickson	Langseth	Pehler	Spear
Bernhagen	Freeman	Lantry	Peterson, C.C.	Storm
Bertram	Hughes	Lessard	Peterson, D.C.	Stumpf
Brataas	Isackson	Luther	Peterson, D.L.	Taylor
Chmielewski	Johnson, D.E.	McQuaid	Peterson, R.W.	Vega
Davis	Jude	Mehrkens	Petty	Wegscheid
DeCramer	Kamrath	Merriam	Pogemiller	Willet

So the bill passed and its title was agreed to.

SPECIAL ORDER

H.F. No. 158: A bill for an act relating to taxation; increasing the amount statutory cities and towns may levy for a public cemetery; amending Minnesota Statutes 1984, section 471.24.

Was read the third time and placed on its final passage.

The question was taken on the passage of the bill.

The roll was called, and there were yeas 59 and nays 0, as follows:

Those who voted in the affirmative were:

Anderson	Diessner	Knutson	Nelson	Renneke
Belanger	Dieterich	Kroening	Novak	Samuelson
Benson	Frank	Kronebusch	Olson	Sieloff
Berg	Frederick	Laidig	Pehler	Solon
Berglin	Frederickson	Langseth	Peterson, C.C.	Spear
Bernhagen	Freeman	Lantry	Peterson, D.C.	Storm
Bertram	Gustafson	Lessard	Peterson, D.L.	Stumpf
Brataas	Hughes	Luther	Peterson, R.W.	Taylor
Chmielewski	Isackson	McQuaid	Petty	Vega
Davis	Jude	Mehrkens	Pogemiller	Wegscheid
DeCramer	Kamrath	Merriam	Purfeerst	Willet
Dicklich	Knaak	Moe, R.D.	Ramstad	

So the bill passed and its title was agreed to.

SPECIAL ORDER

H.F. No. 485: A bill for an act relating to the city of Lismore; authorizing it to issue bonds for municipal facilities.

Was read the third time and placed on its final passage.

The question was taken on the passage of the bill.

The roll was called, and there were yeas 54 and nays 0, as follows:

Those who voted in the affirmative were:

Adkins	Dicklich	Knaak	Moe, R.D.	Purfeerst
Anderson	Dieterich	Knutson	Nelson	Ramstad
Belanger	Frank	Kroening	Novak	Samuelson
Benson	Frederick	Kronebusch	Olson	Sieloff
Berglin	Frederickson	Langseth	Pehler	Spear
Bernhagen	Freeman	Lantry	Peterson, C.C.	Storm
Bertram	Gustafson	Lessard	Peterson, D.C.	Stumpf
Brataas	Hughes	Luther	Peterson, D.L.	Taylor
Chmielewski	Isackson	McQuaid	Peterson, R.W.	Wegscheid
Davis	Jude	Mehrkens	Petty	Willet
DeCramer	Kamrath	Merriam	Pogemiller	

So the bill passed and its title was agreed to.

SPECIAL ORDER

S.F. No. 364: A bill for an act relating to health; expanding the purposes of health care review organizations; amending Minnesota Statutes 1984, section 145.61, subdivision 5.

Mrs. Brataas moved to amend S.F. No. 364 as follows:

Page 2, after line 34, insert:

"Sec. 2. Minnesota Statutes 1984, section 145.63, is amended to read:

145.63 [LIMITATION ON LIABILITY FOR MEMBERS OF REVIEW ORGANIZATIONS.]

Subdivision 1. No person who is a member or employee of, who acts in an advisory capacity to or who furnishes counsel or services to, a review organization shall be liable for damages or other relief in any action brought by a person or persons whose activities have been or are being scrutinized or reviewed by a review organization, by reason of the performance by him of any duty, function or activity of such review organization, unless the performance of such duty, function or activity was motivated by malice toward the person affected thereby. No person shall be liable for damages or other relief in any action by reason of the performance of him of any duty, function, or activity as a member of a review committee or by reason of any recommendation or action of the review committee when the person acts in the reasonable belief that his action or recommendation is warranted by facts known to him or the review organization after reasonable efforts to ascertain the facts upon which the review organization's action or recommendation is made.

Subd. 2. No person, firm, or corporation acting pursuant to or in compliance with any directives, criteria, policy guidelines, or determinations of a review organization designated as a professional review organization pursuant to Code of Federal Regulations, title 42, parts 466.1 to 466.63, shall be subject to any action for damages or other relief by reason of any failure to provide medical care or treatment to any person whose care or treatment is required to be scrutinized or reviewed by the professional review organization."

Amend the title as follows:

Page 1, line 3, after the semicolon, insert "limiting liability of a professional standards review organization for failure to provide medical care or treatment;"

Page 1, line 4, delete "section" and insert "sections" and after "5" insert "; and 145.63"

Mr. Dieterich questioned whether the amendment was germane.

The President ruled that the amendment was not germane.

S.F. No. 364 was read the third time.

CALL OF THE SENATE

Mr. Wegscheid imposed a call of the Senate. The Sergeant at Arms was

instructed to bring in the absent members.

Mr. Pogemiller moved that S.F. No. 364, on Special Orders, be stricken and re-referred to the Committee on Rules and Administration. The motion did not prevail.

The question was taken on the passage of the bill.

The roll was called, and there were yeas 51 and nays 9, as follows:

Those who voted in the affirmative were:

Adkins	DeCramer	Knaak	Moe, R.D.	Sieloff
Anderson	Diessner	Knutson	Nelson	Spear
Belanger	Dieterich	Kronebusch	Olson	Storm
Benson	Frederick	Langseth	Peterson, C.C.	Stumpf
Berg	Frederickson	Lantry	Peterson, D.L.	Taylor
Berglin	Gustafson	Lessard	Peterson, R.W.	Waldorf
Bernhagen	Hughes	Luther	Petty	Wegscheid
Bertram	Isackson	McQuaid	Ramstad	
Brataas	Johnson, D.E.	Mehrkens	Reichgott	
Chmielewski	Jude	Merriam	Renneke	
Davis	Kamrath	Moe, D.M.	Samuelson	

Those who voted in the negative were:

Frank	Kroening	Pehler	Pogemiller	Willet
Freeman	Novak	Peterson, D.C.	Vega	

So the bill passed and its title was agreed to.

SPECIAL ORDER

S.F. No. 994: A bill for an act relating to education; authorizing the transfer of certain state land unneeded for community college purposes to certain cities to be used for student housing; authorizing the sale of certain community college land in Worthington; appropriating money; proposing coding for new law in Minnesota Statutes, chapter 136.

Mr. Nelson moved to amend S.F. No. 994, as follows:

Page 1, line 20, after "housing" insert "unless the owner of improvements on the land agrees before the reversion to pay the state the value of the unimproved land. For purposes of determining the value, the commissioner shall designate two or more of the regularly appointed and qualified state appraisers to determine the value of the land"

Page 1, line 22, delete "subdivision" and insert "section" and after "and" insert "Minnesota Statutes,"

Page 2, line 1, before "parcels" insert "two"

Page 2, line 2, delete everything after the comma

Page 2, delete lines 3 through 5 and insert "legally described as follows:

(a) Parcel number one: A tract of land in the Southwest Quarter (SW 1/4) of Section Twenty-two (22), Township One Hundred Two (102), Range Forty (40), bounded by the following described lines.

Beginning at a point on the north line of said SW 1/4, a distance of 205.00 feet north 89 degrees 35 minutes west of the Northeast corner of said SW 1/4;

thence north 89 degrees 35 minutes west, along the north line of said SW 1/4, a distance of 150.00 feet; thence south parallel with the east line of said SW 1/4 to the northerly right-of-way line of Betty Avenue; thence northeasterly along said right-of-way line to its intersection with the Thompson Avenue west right-of-way line; thence northerly along the westerly right-of-way line of Thompson Avenue to the point of beginning; except that portion of the above described tract within a 396 foot radius of the television tower located on the Worthington Community College site; and

(b) Parcel number two: Lots 10, 11, 12, 13 and 14, Block 3, College View Heights Addition, City of Worthington; and Lots 16, 17, 18, 19 and the Easterly One-Half (E 1/2) of Lot 20, Block 2, Lake Shore Parker Subdivision Part of Government Lots 3 and 4, Section 22, Township 102, Range 40, City of Worthington."

The motion prevailed. So the amendment was adopted.

S.F. No. 994 was read the third time, as amended, and placed on its final passage.

The question was taken on the passage of the bill, as amended.

The roll was called, and there were yeas 59 and nays 0, as follows:

Those who voted in the affirmative were:

Adkins	Diessner	Knaak	Moe, R.D.	Reichgott
Anderson	Dieterich	Knutson	Nelson	Renneke
Belanger	Frank	Kroening	Novak	Sieloff
Benson	Frederick	Kronebusch	Olson	Spear
Berg	Frederickson	Langseth	Pehler	Storm
Berglin	Freeman	Lantry	Peterson, C.C.	Stumpf
Bernhagen	Gustafson	Lessard	Peterson, D.C.	Taylor
Bertram	Hughes	Luther	Peterson, D.L.	Vega
Brataas	Isackson	McQuaid	Peterson, R.W.	Waldorf
Chmielewski	Johnson, D.E.	Mehrkens	Petty	Wegscheid
Davis	Jude	Merriam	Pogemiller	Willett
DeCramer	Kamrath	Moe, D.M.	Ramstad	

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

SPECIAL ORDER

S.F. No. 1029: A bill for an act relating to drivers licenses; providing for access to drivers license photographic negatives; amending Minnesota Statutes 1984, section 171.07, subdivision 1a.

Mr. Spear moved to amend S.F. No. 1029 as follows:

Page 1, line 20, delete "this chapter or"

Page 1, line 21, delete "section" and insert "sections" and after "169.129," insert "171.22, 171.24, 171.30,"

The motion prevailed. So the amendment was adopted.

Mr. Spear then moved to amend S.F. No. 1029 as follows:

Page 1, after line 7, insert:

"Section 1. Minnesota Statutes 1984, section 169.02, subdivision 1, is amended to read:

Subdivision 1. The provisions of this chapter relating to the operation of vehicles refer exclusively to the operation of vehicles upon highways, and upon highways, streets, private roads, and roadways situated on property owned, leased, or occupied by the regents of the University of Minnesota; or the University of Minnesota, except:

(1) Where a different place is specifically referred to in a given section;

(2) The provisions of sections 169.09 to 169.13 ~~shall apply upon highways and elsewhere throughout the state~~ *to any person who drives, operates, or is in physical control of a motor vehicle within this state or upon the ice of any boundary water of this state.*

Sec. 2. Minnesota Statutes 1984, section 169.121, subdivision 1, is amended to read:

Subdivision 1. [CRIME.] It is a misdemeanor for any person to drive, operate or be in physical control of any motor vehicle within this state *or upon the ice of any boundary water of this state:*

(a) When the person is under the influence of alcohol;

(b) When the person is under the influence of a controlled substance;

(c) When the person is under the influence of a combination of any two or more of the elements named in clauses (a) and (b);

(d) When the person's alcohol concentration is 0.10 or more; or

(e) When the person's alcohol concentration as measured within two hours of the time of driving is 0.10 or more.

~~The provisions of this subdivision apply, but are not limited in application, to any person who drives, operates, or is in physical control of any motor vehicle in the manner prohibited by this subdivision upon the ice of any lake, stream, or river, including but not limited to the ice of any boundary water.~~

Sec. 3. Minnesota Statutes 1984, section 169.123, subdivision 2, is amended to read:

Subd. 2. [IMPLIED CONSENT; CONDITIONS; ELECTION AS TO TYPE OF TEST.] (a) Any person who drives, operates, or is in physical control of a motor vehicle within this state *or upon the ice of any boundary water of this state* consents, subject to the provisions of this section and section 169.121, to a chemical test of his blood, breath, or urine for the purpose of determining the presence of alcohol or a controlled substance. The test shall be administered at the direction of a peace officer. The test may be required of a person when an officer has probable cause to believe the person was driving, operating, or in physical control of a motor vehicle in violation of section 169.121 and one of the following conditions exist: (1) the person has been lawfully placed under arrest for violation of section 169.121, or an ordinance in conformity with it; or (2) the person has been involved in a motor vehicle accident or collision resulting in property damage, personal injury, or death; or (3) the person has refused to take the screening test provided for by section 169.121, subdivision 6; or (4) the screening test was administered and recorded an alcohol concentration of 0.10 or more.

(b) At the time a test is requested, the person shall be informed:

(1) that Minnesota law requires the person to take a test to determine if the person is under the influence of alcohol or a controlled substance;

(2) that if testing is refused, the person's right to drive will be revoked for a minimum period of one year or, if the person is under the age of 18 years, for a period of one year or until he or she reaches the age of 18 years, whichever is greater;

(3) that if a test is taken and the results indicate that the person is under the influence of alcohol or a controlled substance, the person will be subject to criminal penalties and the person's right to drive may be revoked for a minimum period of 90 days or, if the person is under the age of 18 years, for a period of six months or until he or she reaches the age of 18 years, whichever is greater;

(4) that after submitting to testing, the person has the right to consult with an attorney and to have additional tests made by a person of his own choosing; and

(5) that if he refuses to take a test, the refusal will be offered into evidence against him at trial.

(c) The peace officer who requires a test pursuant to this subdivision may direct whether the test shall be of blood, breath, or urine. However, if the officer directs that the test shall be of a person's blood or urine, the person may choose whether the test shall be of his blood or urine.

Sec. 4. Minnesota Statutes 1984, section 169.129, is amended to read:

169.129 [AGGRAVATED VIOLATIONS; PENALTY.]

Any person who drives, operates, or is in physical control of a motor vehicle, the operation of which requires a driver's license, within this state *or upon the ice of any boundary water of this state* in violation of section 169.121 or an ordinance in conformity with it before his driver's license or driver's privilege has been reinstated following its cancellation, suspension or revocation (1) because he drove, operated, or was in physical control of a motor vehicle while under the influence of alcohol or a controlled substance or while he had an alcohol concentration of 0.10 or more or (2) because he refused to take a test which determines the presence of alcohol or a controlled substance when requested to do so by a proper authority, is guilty of a gross misdemeanor. Jurisdiction over prosecutions under this section is in the county court."

Page 1, after line 22, insert:

"Sec. 6. [REPEALER.]

Minnesota Statutes 1984, section 169.13, subdivision 3, is repealed."

Renumber the sections in sequence

Amend the title as follows:

Page 1, line 2, delete "drivers licenses" and insert "crimes; providing for the application of certain traffic regulations; eliminating redundant and surplus language"

Page 1, line 4, delete "section" and insert "sections 169.02, subdivision

1; 169.121, subdivision 1; 169.123, subdivision 2; and 169.129;" and before the period, insert " ; repealing Minnesota Statutes 1984, section 169.13, subdivision 3"

Mr. Knaak questioned whether the amendment was germane.

The President ruled that the amendment was not germane.

S.F. No. 1029 was read the third time, as amended, and placed on its final passage.

The question was taken on the passage of the bill, as amended.

The roll was called, and there were yeas 57 and nays 0, as follows:

Those who voted in the affirmative were:

Adkins	Dieterich	Kroening	Novak	Samuelson
Anderson	Frank	Kronebusch	Olson	Sieloff
Benson	Frederick	Langseth	Pehler	Spear
Berg	Frederickson	Lantry	Peterson, D.C.	Storm
Berglin	Freeman	Lessard	Peterson, D.L.	Stumpf
Bernhagen	Gustafson	Luther	Peterson, R.W.	Taylor
Bertram	Hughes	McQuaid	Petty	Waldorf
Brataas	Isackson	Mehrkins	Pogemiller	Wegscheid
Chmielewski	Jude	Merriam	Purfeerst	Willet
Davis	Kamrath	Moe, D.M.	Ramstad	
DeCramer	Knaak	Moe, R.D.	Reichgott	
Diessner	Knutson	Nelson	Renneke	

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

SPECIAL ORDER

H.F. No. 982: A bill for an act relating to veterans; providing space in the veterans service building for certain veterans organizations; amending Minnesota Statutes 1984, section 197.58.

Was read the third time and placed on its final passage.

The question was taken on the passage of the bill.

The roll was called, and there were yeas 54 and nays 0, as follows:

Those who voted in the affirmative were:

Adkins	Diessner	Knaak	Moe, R.D.	Reichgott
Anderson	Dieterich	Knutson	Nelson	Renneke
Benson	Frank	Kronebusch	Novak	Samuelson
Berg	Frederick	Langseth	Olson	Sieloff
Berglin	Frederickson	Lantry	Pehler	Spear
Bernhagen	Freeman	Lessard	Peterson, D.C.	Storm
Bertram	Gustafson	Luther	Peterson, D.L.	Stumpf
Brataas	Hughes	McQuaid	Peterson, R.W.	Waldorf
Chmielewski	Isackson	Mehrkins	Petty	Wegscheid
Davis	Jude	Merriam	Pogemiller	Willet
DeCramer	Kamrath	Moe, D.M.	Purfeerst	

So the bill passed and its title was agreed to.

SPECIAL ORDER

S.F. No. 880: A resolution memorializing the United States Department of

Energy of Minnesota's opposition to the siting of a high-level radioactive waste disposal site in Minnesota pursuant to the Nuclear Waste Policy Act of 1982.

Was read the third time and placed on its final passage.

The question was taken on the passage of the resolution.

The roll was called, and there were yeas 56 and nays 0, as follows:

Those who voted in the affirmative were:

Adkins	Dicklich	Knaak	Novak	Sieloff
Anderson	Diessner	Knutson	Olson	Spear
Belanger	Dieterich	Kroening	Pehler	Storm
Benson	Frank	Kronebusch	Peterson, C.C.	Stumpf
Berg	Frederick	Lantry	Peterson, D.C.	Vega
Berglin	Frederickson	Luther	Peterson, D.L.	Waldorf
Bernhagen	Freeman	McQuaid	Peterson, R.W.	Wegscheid
Bertram	Hughes	Mehrkins	Petty	Willet
Brataas	Isackson	Merriam	Pogemiller	
Chmielewski	Johnson, D.J.	Moe, D.M.	Ramstad	
Davis	Jude	Moe, R.D.	Reichgott	
DeCramer	Kamrath	Nelson	Renneke	

So the resolution passed and its title was agreed to.

SPECIAL ORDER

H.F. No. 645: A bill for an act relating to crimes; specifying the effect of and the procedure for issuing an order of restitution; amending Minnesota Statutes 1984, section 611A.04, subdivision 3; proposing coding for new law in Minnesota Statutes, chapter 611A.

Was read the third time and placed on its final passage.

The question was taken on the passage of the bill.

The roll was called, and there were yeas 56 and nays 0, as follows:

Those who voted in the affirmative were:

Adkins	Dicklich	Knutson	Olson	Spear
Anderson	Diessner	Kroening	Pehler	Storm
Belanger	Frank	Kronebusch	Peterson, C.C.	Stumpf
Benson	Frederick	Langseth	Peterson, D.C.	Taylor
Berg	Frederickson	Lantry	Peterson, D.L.	Vega
Berglin	Freeman	Lessard	Peterson, R.W.	Waldorf
Bernhagen	Gustafson	Luther	Petty	Wegscheid
Bertram	Hughes	McQuaid	Pogemiller	Willet
Brataas	Isackson	Mehrkins	Ramstad	
Chmielewski	Jude	Merriam	Reichgott	
Davis	Kamrath	Moe, D.M.	Renneke	
DeCramer	Knaak	Moe, R.D.	Sieloff	

So the bill passed and its title was agreed to.

SPECIAL ORDER

S.F. No. 743: A bill for an act relating to corporations; allowing nonprofit corporations to establish, maintain, and operate common trust funds; proposing coding for new law in Minnesota Statutes, chapter 317.

Was read the third time and placed on its final passage.

The question was taken on the passage of the bill.

The roll was called, and there were yeas 58 and nays 1, as follows:

Those who voted in the affirmative were:

Adkins	Dicklich	Knaak	Moe, R.D.	Renneke
Anderson	Diessner	Knutson	Olson	Solon
Belanger	Dieterich	Kroening	Pehler	Spear
Benson	Frank	Kronebusch	Peterson, C.C.	Storm
Berg	Frederick	Langseth	Peterson, D.C.	Stumpf
Berglin	Frederickson	Lantry	Peterson, D.L.	Taylor
Bernhagen	Freeman	Lessard	Peterson, R.W.	Vega
Bertram	Gustafson	Luther	Petty	Waldorf
Brataas	Hughes	McQuaid	Pogemiller	Wegscheid
Chmielewski	Isackson	Mehrkens	Purfeerst	Willet
Davis	Jude	Merriam	Ramstad	
DeCramer	Kamrath	Moe, D.M.	Reichgott	

Mr. Sieloff voted in the negative.

So the bill passed and its title was agreed to.

SPECIAL ORDER

S.F. No. 664: A bill for an act relating to natural resources; revising the boundaries of certain state forests; creating a new state forest; amending Minnesota Statutes 1984, section 89.021, subdivisions 18, 28, 33, and by adding a subdivision.

Was read the third time and placed on its final passage.

The question was taken on the passage of the bill.

The roll was called, and there were yeas 52 and nays 0, as follows:

Those who voted in the affirmative were:

Adkins	Diessner	Knaak	Novak	Spear
Anderson	Dieterich	Knutson	Olson	Storm
Belanger	Frank	Kroening	Peterson, C.C.	Stumpf
Benson	Frederick	Kronebusch	Peterson, D.C.	Taylor
Berglin	Frederickson	Lantry	Peterson, D.L.	Vega
Bernhagen	Freeman	Lessard	Peterson, R.W.	Waldorf
Bertram	Gustafson	Luther	Pogemiller	Wegscheid
Chmielewski	Hughes	Mehrkens	Purfeerst	Willet
Davis	Isackson	Merriam	Ramstad	
DeCramer	Jude	Moe, D.M.	Renneke	
Dicklich	Kamrath	Moe, R.D.	Sieloff	

So the bill passed and its title was agreed to.

SPECIAL ORDER

S.F. No. 1099: A resolution memorializing the President and Congress of the United States to award posthumous Medals of Freedom to Andrew Goodman, Michael Schwerner, and James Chaney.

Was read the third time and placed on its final passage.

The question was taken on the passage of the resolution.

The roll was called, and there were yeas 56 and nays 0, as follows:

Those who voted in the affirmative were:

Adkins	Diessner	Kroening	Novak	Spear
Anderson	Dieterich	Kronebusch	Olson	Storm
Belanger	Frank	Langseth	Pehler	Stumpf
Benson	Frederick	Lantry	Peterson, C.C.	Taylor
Berglin	Freeman	Lessard	Peterson, D.C.	Vega
Bernhagen	Gustafson	Luther	Peterson, D.L.	Waldorf
Bertram	Hughes	McQuaid	Peterson, R.W.	Wegscheid
Brataas	Isackson	Mehrkins	Pogemiller	Willet
Chmielewski	Jude	Merriam	Purfeerst	
Davis	Kamrath	Moe, D.M.	Ramstad	
DeCramer	Knaak	Moe, R.D.	Renneke	
Dicklich	Knutson	Nelson	Sieloff	

So the resolution passed and its title was agreed to.

SPECIAL ORDER

H.F. No. 953: A bill for an act relating to the city of Hermantown; permitting the city to fix the size of its public utilities commission.

Was read the third time and placed on its final passage.

The question was taken on the passage of the bill.

The roll was called, and there were yeas 58 and nays 1, as follows:

Those who voted in the affirmative were:

Adkins	Diessner	Knutson	Nelson	Sieloff
Anderson	Dieterich	Kronebusch	Novak	Solon
Belanger	Frank	Laidig	Olson	Spear
Benson	Frederick	Langseth	Pehler	Storm
Berglin	Frederickson	Lantry	Peterson, C.C.	Stumpf
Bernhagen	Freeman	Lessard	Peterson, D.C.	Taylor
Bertram	Gustafson	Luther	Peterson, D.L.	Vega
Brataas	Hughes	McQuaid	Peterson, R.W.	Waldorf
Chmielewski	Isackson	Mehrkins	Pogemiller	Wegscheid
Davis	Jude	Merriam	Purfeerst	Willet
DeCramer	Kamrath	Moe, D.M.	Ramstad	
Dicklich	Knaak	Moe, R.D.	Renneke	

Mr. Kroening voted in the negative.

So the bill passed and its title was agreed to.

SPECIAL ORDER

H.F. No. 1065: A bill for an act relating to local government; permitting the municipal board to require meetings to discuss disputed issues; amending Minnesota Statutes 1984, section 414.01, by adding a subdivision.

Was read the third time and placed on its final passage.

The question was taken on the passage of the bill.

The roll was called, and there were yeas 55 and nays 1, as follows:

Those who voted in the affirmative were:

Adkins	Dieterich	Laidig	Novak	Renneke
Anderson	Frank	Langseth	Olson	Sieloff
Belanger	Frederickson	Lantry	Pehler	Solon
Benson	Hughes	Lessard	Peterson, C.C.	Spear
Bernhagen	Isackson	Luther	Peterson, D.C.	Storm
Bertram	Jude	McQuaid	Peterson, D.L.	Stumpf
Chmielewski	Kamrath	Mehrkens	Peterson, R.W.	Taylor
Davis	Knaak	Merriam	Pogemiller	Vega
DeCramer	Knutson	Moe, D.M.	Purfeerst	Waldorf
Dicklich	Kroening	Moe, R.D.	Ramstad	Wegscheid
Diessner	Kronebusch	Nelson	Reichgott	Willet

Mr. Frederick voted in the negative.

So the bill passed and its title was agreed to.

SPECIAL ORDER

S.F. No. 1119: A bill for an act relating to local government; increasing the amount that a county board may credit to the sheriff's contingency fund; amending Minnesota Statutes 1984, section 387.212.

Was read the third time and placed on its final passage.

The question was taken on the passage of the bill.

The roll was called, and there were yeas 57 and nays 0, as follows:

Those who voted in the affirmative were:

Adkins	Dieterich	Laidig	Olson	Solon
Anderson	Frank	Langseth	Pehler	Spear
Belanger	Frederick	Lantry	Peterson, C.C.	Storm
Benson	Gustafson	Lessard	Peterson, D.C.	Stumpf
Bernhagen	Hughes	Luther	Peterson, D.L.	Taylor
Bertram	Isackson	McQuaid	Peterson, R.W.	Vega
Brataas	Jude	Mehrkens	Pogemiller	Waldorf
Chmielewski	Kamrath	Merriam	Purfeerst	Wegscheid
Davis	Knaak	Moe, D.M.	Ramstad	Willet
DeCramer	Knutson	Moe, R.D.	Reichgott	
Dicklich	Kroening	Nelson	Renneke	
Diessner	Kronebusch	Novak	Sieloff	

So the bill passed and its title was agreed to.

SPECIAL ORDER

H.F. No. 1093: A resolution memorializing the President and Secretary of Agriculture of the United States to require the government of Canada to comply with the fair trade regulations on hogs, or impose quotas and strict tariffs on Canadian hog imports.

Was read the third time and placed on its final passage.

The question was taken on the passage of the resolution.

The roll was called, and there were yeas 41 and nays 12, as follows:

Those who voted in the affirmative were:

Adkins	Diessner	Langseth	Novak	Solon
Anderson	Frank	Lantry	Peterson, C.C.	Stumpf
Belanger	Frederickson	Lessard	Peterson, D.C.	Vega
Bernhagen	Hughes	Luther	Peterson, D.L.	Wegscheid
Bertram	Isackson	Mehrkens	Purfeerst	Willet
Chmielewski	Jude	Merriam	Reichgott	
Davis	Kamrath	Moe, D.M.	Renneke	
DeCramer	Kronebusch	Moe, R.D.	Samuelson	
Dicklich	Laidig	Nelson	Schmitz	

Those who voted in the negative were:

Brataas	Knaak	McQuaid	Sieloff	Storm
Dieterich	Knutson	Ramstad	Spear	Waldorf
Frederick	Kroening			

So the resolution passed and its title was agreed to.

INTRODUCTION AND FIRST READING OF SENATE BILLS

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

Messrs. Freeman, Nelson, Ms. Peterson, D.C.; Messrs. Pehler and Anderson introduced—

S.F. No. 1504: A bill for an act relating to education; establishing a pilot all-day kindergarten program in independent school district No. 280, Richfield; appropriating money.

Referred to the Committee on Education.

Mr. Benson and Mrs. Kronebusch introduced—

S.F. No. 1505: A resolution memorializing the President and Congress of the United States to set up a joint congressional commission to draft a law preventing states from selectively granting benefits to businesses moving into the state that are not offered to businesses already in the state.

Referred to the Committee on Economic Development and Commerce.

Mr. Frederick introduced—

S.F. No. 1506: A bill for an act authorizing the city of Waseca to establish and provide taxes and service charges for a special service district.

Referred to the Committee on Taxes and Tax Laws.

MEMBERS EXCUSED

Mr. Johnson, D.J. was excused from the Session of today at 4:55 p.m. Mr. Schmitz was excused from the Session of today from 2:00 to 7:00 p.m.

The following members were excused from today's Session for brief periods of time: Messrs. Dahl; Frederick; Laidig; Johnson, D.E.; Freeman; Novak and Ms. Berglin.

ADJOURNMENT

Mr. Moe, R.D. moved that the Senate do now adjourn until 1:00 p.m.,

Wednesday, April 24, 1985. The motion prevailed.

Patrick E. Flahaven, Secretary of the Senate