

## FIFTY-SIXTH DAY

St. Paul, Minnesota, Thursday, May 9, 1985

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

### RECESS

Mr. Moe, R.D. moved that the Senate do now recess until 2:00 p.m. The motion prevailed.

The hour of 2:00 p.m. having arrived, the President called the Senate to order.

### CALL OF THE SENATE

Mr. Moe, R.D. imposed a call of the Senate. The Sergeant at Arms was instructed to bring in the absent members.

Prayer was offered by the Chaplain, Senator Donald A. Storm.

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.	Mehrkens	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.

### CONFERENCE COMMITTEE EXCUSED

Pursuant to Rule 21, Mr. Nelson moved that the following members be excused for a Conference Committee on H.F. No. 88 at 2:30 p.m.:

Messrs. Nelson, Pehler, Ms. Peterson, D.C.; Messrs. Peterson, D.L. and Peterson, R.W. The motion prevailed.

**EXECUTIVE AND OFFICIAL COMMUNICATIONS**

The following communications were received.

May 6, 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
	1	58	May 6	May 6
	94	59	May 6	May 6
	204	60	May 6	May 6
	230	61	May 6	May 6
	247	62	May 6	May 6
	256	63	May 6	May 6
	454	64	May 6	May 6
	468	65	May 6	May 6
	507	66	May 6	May 6
	565	67	May 6	May 6
	580	68	May 6	May 6
	656	69	May 6	May 6
	698	70	May 6	May 6
	730	71	May 6	May 6
	759	72	May 6	May 6
	825	73	May 6	May 6
	831	74	May 6	May 6
	852	75	May 6	May 6
	863	76	May 6	May 6
	951	77	May 6	May 6
	982	78	May 6	May 6
	1065	79	May 6	May 6
	1570	80	May 6	May 6

Sincerely,

Joan Anderson Growe  
Secretary of State

May 8, 1985

The Honorable Jerome M. Hughes  
President of the Senate

Dear Sir:

I have the honor of informing you that I have received, approved, signed

and deposited in the Office of the Secretary of State, S.F. Nos. 783, 1119 and 1329.

Sincerely,

Rudy Perpich, Governor

### MESSAGES FROM THE HOUSE

Mr. President:

I have the honor to announce that the House refuses to concur in the Senate amendments to House File No. 1109:

H.F. No. 1109: A bill for an act relating to state government; concerning the state procurement of goods and services from small businesses; modifying geographical distribution requirements and preference program limitations; amending Minnesota Statutes 1984, section 16B.19, subdivisions 5, 6, 9, and by adding a subdivision; 16B.21, subdivision 1; 16B.22; and 645.445, subdivision 5.

The House respectfully requests that a Conference Committee of three members be appointed thereon.

Frerichs, Osthoff and Bennett have been appointed as such committee on the part of the House.

House File No. 1109 is herewith transmitted to the Senate with the request that the Senate appoint a like committee.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted May 8, 1985

Mrs. Adkins moved that the Senate accede to the request of the House for a Conference Committee on H.F. No. 1109, and that a Conference Committee of 3 members be appointed by the Subcommittee on Committees on the part of the Senate, to act with a like Conference Committee appointed on the part of the House. The motion prevailed.

Mr. President:

I have the honor to announce the passage by the House of the following House File, herewith transmitted: H.F. No. 1458.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted May 8, 1985

### FIRST READING OF HOUSE BILLS

The following bill was read the first time and referred to the committee indicated.

H.F. No. 1458: A bill for an act relating to claims against the state; providing for payment of various claims; appropriating money.

Referred to the Committee on Finance.

### REPORTS OF COMMITTEES

Mr. Moe, R.D. moved that the Committee Reports at the Desk be now

adopted. The motion prevailed.

Mr. Willet from the Committee on Finance, to which was re-referred

S.F. No. 776: A bill for an act relating to health; requiring the commissioner of health to develop programs for the promotion of nonsmoking; providing for tax increase on cigarettes; prohibiting the free distribution of cigarettes; raising the cigarette tax; appropriating money; amending Minnesota Statutes 1984, sections 297.02, by adding a subdivision; 297.03, subdivision 10; 297.13, subdivision 1; 297.22, subdivision 1; 297.32, subdivisions 1, 2, and by adding subdivisions; and 297.35, subdivision 1; proposing coding for new law in Minnesota Statutes, chapters 124, 144, and 145.

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 116.16, subdivision 2, is amended to read:

Subd. 2. [DEFINITIONS.] In this section and sections 116.17 and 116.18:

(1) Agency means the Minnesota pollution control agency created by this chapter;

(2) Municipality means any county, city, and town, the metropolitan waste control commission established in chapter 473 and the metropolitan council when acting under the provisions of that chapter or an Indian tribe or an authorized Indian tribal organization, and any other governmental subdivision of the state responsible by law for the prevention, control, and abatement of water pollution in any area of the state;

(3) Pollution control fund means the Minnesota state water pollution control fund created by subdivision 1;

(4) Bond account means the Minnesota state water pollution control bond account created in the state bond fund by section 116.17, subdivision 4;

(5) Terms defined in section 115.01 have the meanings therein given them;

(6) The eligible cost of any municipal project, except as otherwise provided in clauses (7) and (8), includes (a) preliminary planning to determine the economic, engineering, and environmental feasibility of the project; (b) engineering, architectural, legal, fiscal, economic, sociological, project administrative costs of the agency and the municipality, and other investigations and studies; (c) surveys, designs, plans, working drawings, specifications, procedures, and other actions necessary to the planning, design, and construction of the project; (d) erection, building, acquisition, alteration, remodeling, improvement, and extension of disposal systems; (e) inspection and supervision of construction; and (f) all other expenses of the kinds enumerated in section 475.65.

(7) For state *independent grant and matching grant* purposes hereunder, the eligible cost for grant applicants shall be the eligible cost as determined by the United States environmental protection agency under the Federal

Water Pollution Control Act, as amended, 33 U.S.C. 1314, et seq.

(8) Notwithstanding clause (7), for state grants under the state independent grants program, the eligible cost includes the acquisition of land for stabilization ponds, the construction of collector sewers for totally unsewered statutory and home rule charter cities and towns described under section 368.01, subdivision 1 or subdivision 1a, that are in existence on January 1, 1985, and the provision of reserve capacity sufficient to serve the reasonable needs of the municipality for 20 years in the case of treatment works and 40 years in the case of sewer systems. Notwithstanding clause (7), for state grants under the state independent grants program, the eligible cost does not include the provision of collector sewers as defined in agency rules, the provision of service to seasonal homes, or cost increases from contingencies that exceed three percent of as-bid costs or cost increases from unanticipated site conditions that exceed an additional two percent of as-bid costs.

**Sec. 2. [116.162] [STATE GRANT PROGRAM FOR COMBINED SEWER OVERFLOW.]**

*Subdivision 1. [DEFINITIONS.] (a) Except as otherwise provided in this section, the terms used in this section have the meanings given in section 116.16, subdivision 2.*

*(b) "Combined sewer" means a sewer that is designed and intended to serve as a sanitary sewer and a storm sewer, or as an industrial sewer and a storm sewer.*

*(c) "Combined sewer overflow" means a discharge of a combination of storm and sanitary wastewater or storm and industrial wastewater directly or indirectly into the waters of the state, occurring when the volume of wastewater flow exceeds the conveyance or storage capacity of a combined sewer system.*

*Subd. 2. [PROGRAM PURPOSE.] The agency shall administer a state grant program to assist eligible recipients to abate combined sewer overflow to the Mississippi river from its confluence with the Rum river to its confluence with the St. Croix river.*

*Subd. 3. [ELIGIBLE RECIPIENTS.] A statutory or home rule charter city is eligible for grants under the program if the city has a permit, stipulation agreement, consent decree, or order issued by the agency requiring construction to abate combined sewer overflow and if the city adopts an approved plan to abate combined sewer overflow.*

*Subd. 4. [ELIGIBLE COSTS.] The eligible costs under this section include the costs listed in section 116.16, subdivision 2, paragraph (6), as determined by the agency, using as guidelines the regulations promulgated by the United States environmental protection agency under the Federal Water Pollution Control Act, United States Code, title 33, sections 1314 to 1328, except that the eligible costs include easements necessary for implementing the combined sewer overflow abatement plan and do not include:*

- (1) the preparation of combined sewer overflow abatement plans;*
- (2) acquisition of interests in real property other than easements;*
- (3) storm water treatment facilities;*

(4) costs for a program to disconnect any structures or devices, excluding catch basins on public property, constructed to direct or convey storm water, snow melt, or surface water from private or public property into a public sanitary or combined sewer;

(5) costs incurred before the effective date of this section; and

(6) costs incurred after the effective date of this section but without prior written approval of the agency.

**Subd. 5. [GRANT PROGRAM.]** The agency shall annually award grants to eligible recipients in that year for combined sewer overflow projects. The agency shall determine eligible costs for each eligible recipient and compare those individual costs to the total eligible cost required to abate combined sewer overflows. This comparison determines each eligible recipient's proportionate share of the costs, and the appropriation for the program must be distributed among eligible recipients according to their proportionate share.

**Subd. 6. [GRANT CONDITIONS; ADMINISTRATION.]** (a) A recipient of a grant under this section shall construct the combined sewer overflow abatement facilities in accordance with the construction schedule contained in the permit, stipulation agreement, consent decree, or order issued by the agency. The agency shall require that the construction schedule to abate combined sewer overflow be completed within ten years. As a condition of receiving a grant, the recipient shall implement a program approved by the agency to disconnect any structures or devices, excluding catch basins on public property, constructed to direct or convey storm water, snow melt, or surface water from private or public property into a public sanitary or combined sewer. The deadlines for submittal of facilities plans, plans and specifications, and other documents to the agency for a grant are governed by the construction schedule contained in the permit, stipulation agreement, consent decree, or order issued by the agency requiring combined sewer overflow abatement construction.

(b) A recipient of a grant under this section is not eligible to receive a grant to abate combined sewer overflow under the state independent grants program.

**Subd. 7. [RULES.]** The agency shall promulgate permanent rules and may promulgate emergency rules for the administration of the grant program established by this section. The rules must contain as a minimum:

(1) procedures for application;

(2) criteria for eligibility of combined sewer overflow abatement projects;

(3) conditions for use of the grants;

(4) procedures for the administration of grants; and

(5) other matters that the agency finds necessary for the proper administration of the program.

**Sec. 3. Minnesota Statutes 1984, section 116.18, subdivision 1, is amended to read:**

**Subdivision 1. [APPROPRIATION FROM THE FUND.]** The sum of \$167,000,000, or so much thereof as may be necessary, is appropriated from

the Minnesota state water pollution control fund in the state treasury to the pollution control agency, for the period commencing on July 23, 1971 ~~and ending June 30, 1985~~, to be granted and disbursed to municipalities and agencies of the state in aid of the construction of projects conforming to section 116.16, in accordance with the rules, priorities, and criteria therein described.

Sec. 4. Minnesota Statutes 1984, section 116.18, subdivision 2a, is amended to read:

Subd. 2a. [STATE MATCHING GRANTS PROGRAM BEGINNING OCTOBER 1, 1984.] For projects tendered, on or after October 1, 1984, a grant of federal money under section 201(g), section 202, 203, or 206(f) of the Federal Water Pollution Control Act, as amended, United States Code, title 33, sections 1251 to 1376, at 55 percent or more of the eligible cost for construction of the treatment works, state money appropriated under subdivision 1 must be expended for up to ~~45~~ 30 percent of the eligible cost of construction for municipalities for which the construction would otherwise impose significant financial hardship; provided, that not less than ~~25~~ ten percent of the eligible cost must be paid by the municipality or agency constructing the project. If a municipality is tendered federal and state grants in a percentage cumulatively exceeding ~~75~~ 90 percent of the eligible cost of construction, the state pollution control agency shall reduce the grant to the municipality under this chapter to the extent necessary to ensure that not less than ~~25~~ ten percent of the eligible cost will be paid by the municipality. The amounts of the matching grants must be based on per connection capital cost, median household income, and per capita adjusted assessed valuation.

Sec. 5. Minnesota Statutes 1984, section 116.18, subdivision 3a, is amended to read:

Subd. 3a. [STATE INDEPENDENT GRANTS PROGRAM.] (a) The agency may award independent grants for projects for 50 percent or, if the agency requires advanced treatment, 65 percent of the eligible cost of construction. The agency may award independent grants for up to an additional ~~45~~ 30 percent or, if the agency requires advanced treatment, up to an additional ~~ten~~ 25 percent of the eligible cost of construction to municipalities for which the construction would otherwise impose significant financial hardship; the amounts of the additional grants shall be based on per connection capital cost, median household income, and per capita adjusted assessed valuation. These grants may be awarded in separate steps for planning and design in addition to actual construction. ~~Not more than 20 percent of the total amount of grants awarded under this subdivision in any single fiscal year may be awarded for projects for the control of combined sewer overflow as defined by federal regulation.~~ Until December 31, 1990, not more than 20 percent of the total amount of grants awarded under this subdivision in any single fiscal year may be awarded to a single grantee.

(b) Up to ten percent of the money to be awarded as grants under this subdivision in any single fiscal year shall be set aside for municipalities having substantial economic development projects that cannot come to fruition without municipal wastewater treatment improvements. The agency shall forward its municipal needs list to the commissioner of energy and economic development at the beginning of each fiscal year, and the com-

missioner shall review the list and identify those municipalities having substantial economic development projects. After the first 90 percent of the total available money is allocated to municipalities in accordance with agency priorities, the set-aside shall be used by the agency to award grants to remaining municipalities that have been identified.

(c) Grants may also be awarded under this subdivision to reimburse municipalities willing to proceed with projects and ~~apply to be reimbursed in the~~ a subsequent year conditioned upon appropriation of sufficient money under subdivision 1 for that year. The maximum amount of the reimbursement the agency may commit in any single fiscal year is equal to the amount newly appropriated ~~under subdivision 1~~ to the state grants programs for that year.

#### Sec. 6. [116.19] [MUNICIPAL POWERS.]

*Subdivision 1. [PURPOSE.] Notwithstanding a statute or home rule charter to the contrary, a recipient of a grant from the agency may exercise the authority provided in this section to abate combined sewer overflow or provide money to pay all or part of the costs of the abatement and of making improvements to any utility required to effect the abatement.*

*Subd. 2. [GENERAL.] A recipient may acquire real or personal property by purchase, including installment purchase, lease, including a financing lease, condemnation, gift, or grant, or may sell real or personal property at its fair market value determined by the recipient and simultaneously enter into an installment purchase or lease, including a financing lease, for purposes of reacquiring real or personal property. A recipient may construct, enlarge, improve, replace, repair, maintain, and operate a public sewer system, including storm sewers, sanitary sewers, and facilities for separating storm sewers from combined storm and sanitary sewers, or any other public utilities combined with the public sewer system as provided in this section. To accomplish these purposes, a recipient may exercise the powers granted a municipality by chapters 115, 117, 412, 429, 435, 444, 471, and 475, and may combine the public sewer system, for purposes of operation or revenue collection or both or for other purposes the city council determines, with one or more other public utilities. Charges for the services provided by a combined utility may be determined in any reasonable manner.*

*Subd. 3. [DEBT.] A recipient may incur indebtedness and may issue and sell bonds or other obligations, including notes, an installment purchase contract, or obligations to make payments under a financing lease, and pledge the full faith and credit of the city to its payment for storm and sanitary sewers and systems without submitting the question of issuing the bonds, or otherwise incurring the obligations, to the electors. The bonds or other obligations may be issued in one or more series, may bear interest at the rate or rates, including floating rates, and may be sold at public or private sale and at the price the recipient determines. A recipient may, in addition to or in substitution for the pledge of its full faith and credit, pledge the revenues or net revenues of its public sewer system or a combined utility or a part of it, or mortgage the assets of the system or combined utility. A recipient may vest in a trustee or trustees, located within or outside the state, the right to enforce any covenants made to secure or to pay the bonds or other obligations, and may determine the powers and duties of the trustee or trustees. Except as*



*provided in this section, the bonds or other obligations must be issued and sold according to chapter 475.*

*Subd. 4. [PROPERTY TAX.] In addition and supplemental to the grants of authority in subdivisions 2 and 3, the governing body may establish a special taxing district or districts within the corporate limits of the city that include some or all of the real or personal property served by a combined sewer separated after the effective date of this section, and may levy and collect ad valorem taxes in the district or districts for the purposes of this section. The taxes must be collected by the county and paid over to the city as are other taxes. The taxes are not restricted by any other tax levy limitations imposed upon the city by any other law or charter provision.*

*Subd. 5. [ASSESSMENTS.] The governing body of the city may divide the city into drainage districts or areas, and may levy and collect assessments based on benefit to property, whether the benefit be direct or indirect, and the assessments so levied may be based upon the existing or highest and best land usage, square footage, front footage or area. The assessments may be levied in accordance with the procedures set forth in the city's home rule charter, if any, or chapter 429, as the council determines. The assessments may be levied and collected from all property whether public or private, and in the case of public property the agency of government responsible for the property must provide the necessary money in its budget request.*

*Subd. 6. [PRIVATE FINANCE.] To secure financing for the purposes of this section, the governing body of the city may use private financing methods, such as private ownership and construction by any means available to the owner of new facilities to benefit the city under a lease, financing lease, installment purchase agreement or service contract, or the sale or mortgaging of all or part of the city's existing public sewer system, combined utility including the public sewer system, or water utility, to benefit the city under a lease, financing lease, installment purchase agreement or service contract. The private financing methods are not subject to any limitations imposed by a home rule charter, if any, or by chapter 475. Any property benefiting the city under the private financing methods is exempt from taxation and the payment of amounts in lieu of taxes to the same extent as property owned by the city.*

**Sec. 7. [116.46] [DEFINITIONS.]**

*Subdivision 1. [APPLICABILITY.] The definitions in this section apply to sections 7 to 9 and section 15.*

*Subd. 2. [AGENCY.] "Agency" means the pollution control agency.*

*Subd. 3. [COMMISSIONER.] "Commissioner" means the commissioner of health.*

*Subd. 4. [ELEVATED BLOOD LEAD LEVEL.] "Elevated blood lead level" means a confirmed concentration of 25 micrograms or more of lead in each deciliter of whole blood.*

*Subd. 5. [RESPONSE ACTION.] "Response action" means action to limit exposure to lead contaminated soil sites, including fencing, covering sites with vegetation, removal and replacement of contaminated soil, and other appropriate measures.*

**Sec. 8. [116.47] [IDENTIFICATION OF LEAD CONTAMINATED**

## SOIL SITES.]

*Subdivision 1. [PRELIMINARY SCREENING.] By January 1, 1986, the agency must identify and develop a preliminary list of sites in the state where significant concentrations of lead in soil are likely and where the probability exists for children's contact with the soil. In identifying these sites the agency must consider:*

*(1) both stationary and mobile lead emission sources;*

*(2) dispersion and depositional patterns of lead emissions; and*

*(3) the presence of populations susceptible to lead exposure or lead absorption, including children at day care centers, schools, parks, and playgrounds, children who have elevated levels of lead in their blood, and children whose socioeconomic status has given them a higher exposure to lead or increased lead absorption.*

*Subd. 2. [SOIL TESTING.] By January 1, 1987, the agency must sample sites on the preliminary list to determine the concentration of lead in the soil. The agency must refer sites to the commissioner where lead in the soil exceeds the interim standard for lead in the soil of 1,000 parts per million. After adoption of the rules under section 9, subdivision 1, the agency shall refer to the commissioner all sites with concentrations above the standard for lead in soil.*

*Subd. 3. [ACCESS TO PROPERTY.] The agency or a person authorized by the agency may, upon presentation of credentials, enter public or private property to conduct surveys or investigations.*

*Subd. 4. [HEALTH SCREENING.] For each site referred by the agency, the commissioner must review the existing health data on the resident population or collect data on the level of lead in the blood if the present data are inadequate. If the level of lead in the blood is elevated in a population at a site, the commissioner shall examine the site for all sources of lead exposure and report to the agency findings and recommendations to reduce the level of lead in the blood.*

**Sec. 9. [116.48] [RULES.]**

*Subdivision 1. [STANDARD FOR LEAD IN SOIL.] By January 1, 1988, the agency shall adopt rules that establish a standard of lead contamination in the soil that threatens the health or welfare of susceptible populations.*

*Subd. 2. [PRIORITIES FOR RESPONSE ACTION.] By January 1, 1988, the agency must adopt rules establishing the priority for response actions. The rules must consider the potential for children's contact with the soil and the existing level of lead in the soil and may consider the relative risk to the public health, the size of the population at risk, and blood lead levels of resident populations.*

**Sec. 10. [REPORT ON LEAD CONTAMINATION IN THE SOIL.]**

*By January 1, 1987, the pollution control agency shall submit a report to the senate and house committees on health and human services describing the extent of lead contamination in the soil, the lead levels in the blood of populations at contaminated sites, the size of the population at risk from exposure to lead in the soil, and an estimate of the cost of response actions*

*required to prevent exposure to soil contaminated by lead.*

Sec. 11. [124.252] [SMOKING PREVENTION PROGRAMS.]

*Subdivision 1. [ELIGIBILITY AND PURPOSE.] Each school board that institutes a smoking prevention program that meets the criteria in subdivision 2 and submits the proposed program to the commissioner of education is eligible for state aid for the following purposes:*

- (1) inservice training for public and nonpublic school staff;*
- (2) smoking prevention curriculums including materials;*
- (3) community and parent awareness programs; and*
- (4) evaluation of curriculum and programs for smoking prevention.*

*Subd. 2. [CRITERIA.] A smoking prevention curriculum must include at least the following components:*

- (1) inservice training of teachers and staff;*
- (2) evaluation of programs and curriculum results;*
- (3) a kindergarten through grade 12 continuum of educational intervention related to smoking; and*
- (4) targeted intervention on smoking onset for students who are 12 to 14 years old based on evaluated curriculums that have been shown to reduce smoking onset rates.*

*Subd. 3. [DISTRICT AID.] An eligible district must receive 52 cents in fiscal year 1986 and 54 cents in fiscal year 1987 and thereafter for each pupil, in average daily membership, enrolled in a public elementary, secondary, or area vocational technical institute or nonpublic elementary or secondary school. Aid for nonpublic school pupils must be paid to the district upon request by or on behalf of the pupils. A school district must not receive less than \$1,000 in fiscal year 1986 and \$1,040 in fiscal year 1987.*

*Subd. 4. [APPLICATIONS.] A district that is eligible for aid shall apply to the commissioner of education by October 1 of each school year on a form supplied by the commissioner.*

*Subd. 5. [ASSISTANCE TO DISTRICTS.] The commissioner of education, with the consultation and assistance of the commissioner of health, shall:*

- (1) provide technical assistance to districts for the development, implementation, and evaluation of smoking prevention curriculum and programs;*
- (2) provide to districts information about evaluation results of various curriculums as reported in the scientific literature and elsewhere; and*
- (3) collect information from districts about prevention programs and evaluation results.*

Sec. 12. [144.391] [PUBLIC POLICY.]

*The legislature finds that:*

- (1) smoking causes premature death, disability, and chronic disease, including cancer and heart disease, and lung disease;*

- (2) *smoking related diseases result in excess medical care costs; and*
- (3) *smoking initiation occurs primarily in adolescence.*

*The legislature desires to prevent young people from starting to smoke, to encourage and assist smokers to quit, and to promote clean indoor air.*

**Sec. 13. [144.392] [DUTIES OF THE COMMISSIONER.]**

*The commissioner of health shall:*

*(1) provide assistance to workplaces to develop policies that promote nonsmoking and are consistent with the Minnesota clean indoor air act;*

*(2) provide technical assistance, including design and evaluation methods, materials, and training to local health departments, communities, and other organizations that undertake community programs for the promotion of nonsmoking;*

*(3) collect and disseminate information and materials for smoking prevention;*

*(4) evaluate new and existing nonsmoking programs on a statewide and regional basis using scientific evaluation methods;*

*(5) conduct surveys in school-based populations regarding the epidemiology of smoking behavior, knowledge, and attitudes related to smoking, and the penetration of statewide smoking control programs; and*

*(6) report to the legislature each biennium on activities undertaken, smoking rates in the population and subgroups of the total population, evaluation activities and results of those activities, and recommendations for further action.*

**Sec. 14. [144.393] [PUBLIC COMMUNICATIONS PROGRAM.]**

*The commissioner may conduct a long-term coordinated public information program that includes public service announcements, public education forums, mass media, and written materials. The program must promote nonsmoking and include background survey research and evaluation. The program must be designed to run over at least five years, subject to the availability of money.*

**Sec. 15. [144.491] [COMMISSIONER'S DUTIES RELATING TO LEAD ABSORPTION.]**

*The commissioner of health shall:*

*(1) provide coordination and advice to community programs that test children for lead in their blood to assure that these testing services are conducted in a safe and appropriate manner, are targeted to children throughout the state at risk to lead contamination or absorption, and generate data that may be analyzed on a statewide basis;*

*(2) provide coordination and advice of local lead absorption testing programs, to assure adequate skill and efficiency, to the laboratories within the state that conduct Erythrocyte Protoporphyrin testing, confirmatory blood lead testing, and testing of paint chips and other environmental lead sources;*

*(3) provide public and professional education concerning lead contami-*

*nation or absorption and its health effects on children;*

*(4) review state and local housing codes and advise the governing bodies and administrative departments adopting or administering the codes to insure that the hazard of absorption and contamination from leaded paint is adequately addressed and considered, and provide technical support for enforcement of the codes by local health departments and local building inspection departments; and*

*(5) study and determine the extent of exposure to lead in drinking water caused by plumbing and develop recommendations and techniques for reducing this exposure.*

Sec. 16. Minnesota Statutes 1984, section 144.70, is amended to read:

144.70 [ANNUAL BIENNIAL REPORT.]

*Subdivision 1. [CONTENT.] The commissioner of health shall prepare and prior to each legislative session a report every two years concerning the status and operations of the health care markets in Minnesota. The commissioner of health shall transmit the reports to the governor and to the members of the legislature an annual. The first report of must be submitted on January 15, 1987, and succeeding reports on January 15 every two years thereafter. Each report must contain information, analysis, and appropriate recommendations concerning the following issues associated with Minnesota health care markets:*

*(1) the overall status of the health care cost problem, including the costs faced by employers and individuals, and prospects for the problem's improving or getting worse;*

*(2) the status of competitive forces in the market for health services and the market for health plans, and the effect of the forces on the health care cost problem;*

*(3) the feasibility and cost-effectiveness of facilitating development of strengthened competitive forces through state initiatives;*

*(4) the feasibility of limiting health care costs by means other than competitive forces, including direct forms of government intervention such as price regulation; the commissioner of health may exclude this issue from the report if the report concludes that the overall status of the health care cost problem is improving, or that competitive forces are contributing significantly to health care cost containment;*

*(5) the overall status of access to adequate health services by citizens of Minnesota, the scope of financial and geographic barriers to access, the effect of competitive forces on access, and prospects for access improving or getting worse;*

*(6) the feasibility and cost-effectiveness of enhancing access to adequate health services by citizens of Minnesota through state initiatives; and*

*(7) the commissioner of health's operations and activities for the preceding fiscal year two years as they relate to the duties imposed on the commissioner of health by sections 144.695 to 144.703. This report shall include a compilation of all summaries and reports required by sections 144.695 to 144.703 together with any findings and recommendations of the commissioner of*

health.

Subd. 2. [INTERAGENCY COOPERATION.] *In completing the report required by subdivision 1, in fulfilling the requirements of sections 144.695 to 144.703, and in undertaking other initiatives concerning health care costs, access, or quality, the commissioner of health shall cooperate with and consider potential benefits to other state agencies that have a role in the market for health services or the market for health plans. Other agencies include the department of employee relations, as administrator of the state employee health benefits program; the department of human services, as administrator of health services entitlement programs; the department of commerce, in its regulation of health plans; the department of labor and industry, in its regulation of health service costs under workers' compensation; and the state planning agency, in its planning for the state's health service needs.*

Sec. 17. [MANDATED BENEFITS COMMISSION.]

*If the governor, during fiscal year 1986, establishes a special commission to study and make recommendations on the appropriate content of the mandated or minimum benefits to be required of health plans in Minnesota, representation on the commission must include:*

*(1) one member from the state planning agency, who shall chair the commission;*

*(2) two members from the senate of the state of Minnesota, one from the majority party and one from the minority party;*

*(3) two members from the house of representatives of the state of Minnesota, one from the majority party and one from the minority party;*

*(4) one member from the Minnesota department of commerce;*

*(5) one member from the Minnesota department of health;*

*(6) one member representing Minnesota counties;*

*(7) one member representing Minnesota employers;*

*(8) one member representing health insurance companies, one member representing health maintenance organizations, and one member representing nonprofit health service plans;*

*(9) two members representing the providers of health services;*

*(10) one member representing labor; and*

*(11) one member representing low income consumers.*

Sec. 18. [144.95] [MOSQUITO RESEARCH PROGRAM.]

*Subdivision 1. [RESEARCH PROGRAM.] The commissioner of health shall establish and maintain a long-range program of research to study:*

*(1) the basic biology, distribution, population ecology, and biosystematics of Minnesota mosquitoes;*

*(2) the impact of mosquitoes on human and animal health and the economy, including such areas as recreation, tourism, and livestock production;*

*(3) the baseline population and environmental status of organisms other*

*than mosquitoes that may be affected by mosquito management;*

*(4) the effects of mosquito management strategies on animals and plants that may result in changes in ecology of specific areas;*

*(5) the development of mosquito management strategies that are effective, practical, and environmentally safe;*

*(6) the costs and benefits of development of local and regional management and educational programs.*

*Subd. 2. [RESEARCH FACILITY AND FIELD STATIONS.] (a) The commissioner of health shall establish and maintain mosquito management research and development facilities, including but not limited to field research stations in the major mosquito ecologic regions and a center for basic mosquito management research and development. The commissioner shall, to the extent possible, contract with the University of Minnesota in establishing, maintaining, and staffing the research facilities.*

*(b) The commissioner of health shall establish and implement a program of contractual research grants with public and private agencies and individuals in order to:*

*(1) undertake supplemental research studies on basic mosquito biology, physiology, and life cycle history beyond those described in subdivision 1;*

*(2) undertake research into the effects of mosquitoes on human health, including vector-borne diseases, and on animal health, including agricultural and wildlife effects;*

*(3) undertake studies of other economic factors including tourism and recreation;*

*(4) collect and analyze baseline data on the ecology and distribution of organisms other than mosquitoes that may be affected as a result of mosquito management strategies;*

*(5) develop new, effective, practical, and biologically compatible control methods and materials;*

*(6) conduct additional monitoring of the environmental effects of mosquito control methods and materials;*

*(7) undertake demonstration, training, and education programs for development of local and regional mosquito management programs.*

*Subd. 3. [CONDUCT RESEARCH TRIALS.] The commissioner of health may develop and conduct research trials of mosquito management methods and materials. Trials may be conducted, with the agreement of the public or private landholder, wherever and whenever the commissioner considers necessary to provide accurate data for determining the efficacy of a method or material in controlling mosquitoes.*

*Subd. 4. [RESEARCH TRIALS.] Research trials of mosquito management methods and materials are subject to the following laws and rules unless a specific written exemption, license, or waiver is granted; sections 97.48, 97.488, 98.48, 105.38, 105.41, and 105.463; and Minnesota Rules, chapters 1505, 6115, 6120, 6134, and 6140.*

*Subd. 5. [GENERAL AUTHORITY.] (a) To carry out subdivisions 1 to 4,*

*the commissioner of health may:*

- (1) accept money, property, or services from any source;*
- (2) receive and hold lands;*
- (3) accept gifts;*
- (4) cooperate with city, state, federal, or private agencies whose research on mosquito control or on other environmental matters may be affected by the commissioner's mosquito management and research activities; and*
- (5) enter into contracts with any public or private entity.*

*(b) The contracts must specify the duties performed, services provided, and the amount and method of reimbursement for them. Money collected by the commissioner under contracts made under this subdivision is appropriated to the commissioner for the purposes specified in the contracts. Contractual agreements must be processed under section 16B.17.*

*Subd. 6. [AUTHORITY TO ENTER PROPERTY.] The commissioner of health, officers, employees, or agents may, with express permission of the owner, enter upon any property at reasonable times to:*

- (1) determine whether mosquito breeding exists;*
- (2) examine, count, study, or collect laboratory samples to determine the property's geographic, geologic, and biologic characteristics; or*
- (3) study and collect laboratory samples to determine the effect on animals and vegetation of an insecticide, herbicide, or other method used to control mosquitoes.*

*Subd. 7. [RESEARCH PLOTS.] The commissioner of health may lease and maintain experimental plots of land for mosquito research. The commissioner of health shall determine the locations of the experimental plots and may enter into agreements with any public or private agency or individual to lease the land. The commissioners of agriculture, natural resources, transportation, iron range resources and rehabilitation, and energy and economic development shall cooperate with the commissioner of health.*

*Subd. 8. [EMERGENCIES.] The commissioner may suspend or revoke a contract, agreement, or delegated authority granted in this section at any time and without prior notice if an emergency, accident, or hazard threatens the public health.*

*Subd. 9. [COMMISSIONER REQUIRED TO REPORT.] Each year, the commissioner shall report to the legislature on basic mosquito research findings and progress toward cost-effective, environmentally sound mosquito management methods and materials. The report must recommend future research and management activities.*

Sec. 19. Minnesota Statutes 1984, section 145.882, is amended to read:

145.882 [MATERNAL AND CHILD HEALTH BLOCK GRANT DISTRIBUTION.]

*Subdivision 1. [CONTINUATION OF 1983 PROJECTS.] (a) Notwithstanding subdivisions 2 and 3, recipients of maternal and child health grants for special projects in state fiscal year 1983 shall continue to be funded at the*



same level as in state fiscal year 1983 until September 30, 1985 December 31, 1987 if they comply with the provisions of sections 145.881, and 145.882 to 145.888. Beginning January 1, 1988, recipients of maternal and child health special project grants awarded in state fiscal year 1983 must receive:

(1) for calendar year 1988, no less than 80 percent of the amount awarded in state fiscal year 1983; and

(2) for calendar year 1989, no less than 70 percent of the amount awarded in state fiscal year 1983.

(b) The amount of grants awarded under this subdivision must be deducted from the allocation under subdivisions 3 and 4 for the community health services area within which the grantee is located. In order to receive money under this subdivision, recipients must continue to comply with sections 145.881 and 145.882 to 145.888. These recipients are also eligible to apply for state grants under sections 145.883 to 145.888 subdivisions 2, 3, and 4. Any decrease in the amount of federal funding to the state for the maternal and child health block grant shall must be apportioned to reflect a proportional decrease for each recipient until September 30, 1985. Any increase in the amount of federal funding to the state shall must be distributed for services to children with handicaps and to special projects as provided in sections 145.883 to 145.888, except that an amount not to exceed ten percent may be retained by the commissioner of health to address cost of living increases and increases in supplies and services under subdivisions 3 and 4 of this section.

After September 30, 1985, (c) The advisory task force shall review and recommend the proportion of maternal and child health block grant funds to be expended for indirect costs, direct services and special projects. The proportion of funds expended in direct services through special projects shall be maintained at not less than the level expended in state fiscal year 1984.

Subd. 2. [ALLOCATION TO THE COMMISSIONER OF HEALTH.] Beginning January 1, 1986, up to one-third of the total maternal and child health block grant money may be retained by the commissioner of health for administrative and technical assistance services, projects of regional or statewide significance, direct services to children with handicaps, and other activities of the commissioner.

Subd. 3. [ALLOCATION TO COMMUNITY HEALTH SERVICES AREAS.] The maternal and child health block grant money remaining after distributions made under subdivisions 1 and 2 must be allocated according to the formula in subdivision 4 to community health services areas for distribution by local boards of health to qualified programs that provide essential services within the community health services area.

Subd. 4. [DISTRIBUTION FORMULA.] The amount available for each community health services area is determined according to the following formula:

(a) Each community health services area is allocated an amount based on the following three variables:

(1) the proportion of resident mothers within the city, county, or counties who are under 20 years of age or over 35 years of age, as determined by averaging the data available for the three most current years;

(2) the proportion of resident infants within the city, county, or counties whose weight at birth is less than 2,500 grams, as determined by averaging the data available for the three most current years; and

(3) the proportion of resident children within the city, county, or counties under the age of 19 who are on general assistance or medical assistance and the proportion of resident women within the city, county, or counties aged 19 to 49 who are on general assistance or medical assistance, as determined by using the data available for the most current year.

(b) Each variable is expressed as a city or county score consisting of the city or county frequency of each variable divided by the statewide frequency of the variable.

(c) A total score for each city or county jurisdiction is computed by totalling the scores of the three factors and dividing the total by three.

(d) Each community health services area is allocated an amount equal to the total score obtained above for the city, county, or counties in its area multiplied by the amount of money available for special projects of local significance.

**Subd. 5. [NONPARTICIPANTS IN THE COMMUNITY HEALTH SERVICES SUBSIDY PROGRAM.]** A city or county that is not participating in the community health services subsidy program must be allocated money under subdivisions 3 and 4, and for this limited purpose the city or county is a "community health services area." For these areas, the commissioner shall convene a meeting of public and private nonprofit agencies in the city or county that have expressed an intent to submit an application for funding, in order to attempt to develop a single coordinated grant application for the city or county. Applications, whether consolidated into a single application or submitted as individual applications, must be submitted according to section 145.885. Grants for qualified programs providing essential services in these areas are awarded and distributed by the commissioner.

**Subd. 6. [REALLOCATION.]** If no approvable applications are received for a community health services area, the commissioner must reallocate the money available for that area to other community health service areas for which approvable applications have been received.

**Subd. 7. [USE OF BLOCK GRANT MONEY.]** (a) Maternal and child health block grant money allocated to a local board of health or community health services area under this section must be used for qualified programs for high risk and low income individuals. Block grant money must be used for programs that:

(1) specifically address the highest risk populations, particularly low income and minority groups with a high rate of infant mortality and children with low birth weight, by providing services calculated to produce measurable decreases in infant mortality rates, instances of children with low birth weight, and medical complications associated with pregnancy and childbirth;

(2) specifically target pregnant women whose age, medical condition, or maternal history substantially increases the likelihood of complications associated with pregnancy and childbirth or the birth of a child with an illness,

disability, or special medical needs;

(3) specifically address the health needs of young children who have or are likely to have a chronic disease or disability or special medical needs; or

(4) provide family planning and preventive medical care for specifically identified target populations, such as minority and low income teenagers, in a manner calculated to decrease the occurrence of inappropriate pregnancy and minimize the risk of complications associated with pregnancy and childbirth.

(b) Maternal and child health block grant money may be used for purposes other than the purposes listed in this subdivision only if the local board of health or community health services area can demonstrate that existing programs fully address the needs of the highest risk target populations described in this subdivision.

Subd. 8. [REPORT.] The commissioner shall prepare, with the advice of the advisory task force, an annual report to the legislature which details the distribution of maternal and child health block grant funds money, including the amounts to be expended for indirect costs, direct services, and special projects local grants. The report shall also identify the statewide needs of low income and high risk populations and the department of health's plans and local board plans for meeting their needs. The legislature must receive the report no later than January of each year.

Sec. 20. Minnesota Statutes 1984, section 145.883, subdivision 8, is amended to read:

Subd. 8. [MATERNAL AND CHILD HEALTH BLOCK GRANT MONEY.] "Maternal and child health block grant money" means the money received by the state from the federal maternal and child health block grant. The commissioner shall carry forward from state fiscal year 1985, and succeeding years, only sufficient funds money for qualified programs approved through the federal fiscal year award period.

Sec. 21. Minnesota Statutes 1984, section 145.883, is amended by adding a subdivision to read:

Subd. 9. [COMMUNITY HEALTH SERVICES AREA.] "Community health services area" means a city, county, or multi-county area that is organized as a local board of health under section 145.913 and for which a state subsidy is received under sections 145.911 to 145.922.

Sec. 22. Minnesota Statutes 1984, section 145.884, subdivision 1, is amended to read:

Subdivision 1. [RULES.] The commissioner shall, in the name of the state and within the limit of the federal maternal and child health block grant appropriation, make grants to public and private nonprofit agencies administering under sections 145.881 to 145.888 for qualified programs of maternal and child health care services. The commissioner shall promulgate rules for the administration of grants authorized by this subdivision. The rules shall establish and contain as a minimum:

(a) procedures for grant applications;

(b) conditions and procedures for the administration of grants;

(c) criteria of eligibility for grants; and

(d) other matters the commissioner finds necessary for the proper administration of the grant program.

Sec. 23. Minnesota Statutes 1984, section 145.885, is amended to read:

145.885 [APPLICATION FOR A GRANT.]

*Subdivision 1. [REQUIREMENTS FOR ALL APPLICATIONS.]* An application for a grant shall be submitted to the commissioner at a time and in a form and manner as the commissioner prescribes. Department of health technical staff shall be available to provide technical assistance in development of grant applications. The application must contain:

(a) (1) a complete description of the program and the manner in which the applicant intends to conduct the program;

(b) (2) a description of the manner in which the program responds to needs and priorities for services identified by the maternal and child health task force under section 145.881, subdivision 2, and rules adopted by the commissioner; differences must be explained in detail;

(3) a budget and justification for the amount of grant funds requested;

(c) (4) a description of the target population served by the qualified program and estimates of the number of low income or high risk patients the program is expected to serve;

(d) (5) the name or names of the person or persons who shall have primary responsibility for the administration and delivery of services of the qualified program; and

(e) (6) the reporting and accounting procedures to be followed by the qualified agency to enable the commissioner to evaluate the activities of the qualified program.

*Subd. 2. [ADDITIONAL REQUIREMENTS FOR LOCAL BOARDS.]* Applications by local boards under section 19, subdivision 3, must also contain a summary of the process used to develop the local program, including evidence that the local board notified local public and private providers of the availability of funding through the local board for maternal and child health services; a list of all public and private agency requests for grants submitted to the local board indicating which requests were included in the grant application; and an explanation of how priorities were established for selecting the requests to be included in the grant application. The local board shall include, with the grant application, a written statement of the criteria to be applied to public and private agency requests for funding.

Sec. 24. Minnesota Statutes 1984, section 145.886, is amended to read:

145.886 [GRANT REVIEW PROCESS.]

Primary review of all grant applications shall be conducted by the department of health technical staff. All technically completed applications will be forwarded for secondary review to a grants review panel established by the commissioner. A majority of the grants review panel must be professionals with expertise in maternal and child health care. No member of the panel may be an employee of a public or private nonprofit agency receiving or applying

for maternal and child health block grant money. The advisory task force shall review the recommendations of the grants review panel for comment to the commissioner the advisory task force. The commissioner shall award grants under section 145.885 and this section only after receiving the comments and recommendation of the grants review panel and the advisory task force on completed grant applications.

Sec. 25. [145.923] [NONSMOKING AND HEALTH GRANTS.]

*The commissioner of health may award special grants to local boards of health to conduct community-wide pilot programs for the promotion of nonsmoking or to local boards of health or nonprofit corporations to conduct statewide programs for the promotion of nonsmoking.*

Sec. 26. [145.924] [SALE OF CANDY CIGARETTES PROHIBITED.]

*A person shall not sell candy cigarettes in this state.*

Sec. 27. Minnesota Statutes 1984, section 297.02, subdivision 1, is amended to read:

Subdivision 1. [RATES.] A tax is hereby imposed upon the sale of cigarettes in this state or having cigarettes in possession in this state with intent to sell and upon any person engaged in business as a distributor thereof, at the following rates, subject to the discount provided in section 297.03:

(1) On cigarettes weighing not more than three pounds per thousand, ~~nine~~ 20.5 mills *minus the tax, not more than eight mills, imposed by United States Code, title 26, section 5701, as amended, on each such cigarette;*

(2) On cigarettes weighing more than three pounds per thousand, ~~18 41.8~~ mills *minus the tax, not more than 16.8 mills, imposed by United States Code, title 26, section 5701, as amended, on each such cigarette.*

Sec. 28. Minnesota Statutes 1984, section 297.03, subdivision 5, is amended to read:

Subd. 5. [SALE OF STAMPS.] (a) *Except as provided in paragraph (b), the commissioner shall sell stamps to any person licensed as a distributor at a discount of ~~2.50~~ two percent from the face amount of the stamps for the first \$500,000 \$1,000,000 of such stamps purchased in any fiscal year; and at a discount of ~~two~~ 1.25 percent on the next \$500,000 remainder of such stamps purchased in any fiscal year; and at a discount of ~~1.50~~ percent for all additional stamps purchased in any fiscal year.* He shall not sell stamps to any other person.

*(b) If the tax exceeds 12.5 mills a cigarette, the discount is 1.5 percent from the face amount of the stamps for the first \$1,000,000 of the stamps purchased in a fiscal year and one percent for additional stamps purchased during the fiscal year.*

Sec. 29. Minnesota Statutes 1984, section 297.13, subdivision 1, is amended to read:

Subdivision 1. [CIGARETTE TAX APPORTIONMENT ACCOUNT.] ~~Notwithstanding any other provisions of law, five and one-half percent of the Revenues received from taxes, penalties and interest under sections 297.01 to 297.13 and from license fees and miscellaneous sources of revenue shall~~

be deposited by the commissioner of revenue in the general fund and credited to a special account to be known as the "natural resources account," which is hereby created. Expenditures shall be made from said account only as may be authorized by law to carry out the provisions of this act and in conformance with the provisions of chapter 16. Five and one-half percent shall be deposited in the general fund and credited to the "natural resources acceleration" account for the purposes provided in Laws 1969, Chapter 879, Section 4: state treasury and credited as follows:

(1) the revenue produced by one mill of the tax on cigarettes weighing not more than three pounds a thousand and two mills of the tax on cigarettes weighing more than three pounds a thousand must be credited to a Minnesota resources fund for purposes of natural resources acceleration as provided in chapter 86;

(2) the revenue produced by three mills of the tax on cigarettes weighing not more than three pounds a thousand and six mills of the tax on cigarettes weighing more than three pounds a thousand must be credited to the Minnesota state water pollution control fund created in section 116.16;

(3) the revenue produced by one-half mill of the tax on cigarettes weighing not more than three pounds a thousand and one mill of the tax on cigarettes weighing more than three pounds a thousand must be credited to a public health fund; if the tax imposed by United States Code, title 26, section 5701, is reduced, the increased revenue to the state must also be credited to the public health fund;

(4) the balance of the revenues derived from taxes, penalties, and interest under sections 297.01 to 297.13 and from license fees and miscellaneous sources of revenue shall be deposited by the commissioner in the general fund and credited to the general fund.

Sec. 30. Minnesota Statutes 1984, section 297.22, subdivision 1, is amended to read:

Subdivision 1. A tax is hereby imposed upon the use or storage by consumers of cigarettes in this state, and upon such consumers, at the following rates:

(1) On cigarettes weighing not more than three pounds per thousand, nine mills on each such cigarette;

(2) On cigarettes weighing more than three pounds per thousand, 18 mills on each such cigarette specified in section 297.02.

Sec. 31. Minnesota Statutes 1984, section 297.32, subdivision 1, is amended to read:

Subdivision 1. A tax is hereby imposed upon all tobacco products in this state and upon any person engaged in business as a distributor thereof, at the rate of 20 27.5 percent of the wholesale sales price of such tobacco products except little cigars as defined in section 297.31, subdivision 2, clause (b). Little cigars shall be subject to the same rate of tax imposed on cigarettes in section 297.02, subdivision 1, clause (1), weighing not more than three pounds per thousand subject to the discount provided in section 297.35, subdivision 1. Such tax shall be imposed at the time the distributor (1) brings, or causes to be brought, into this state from without the state tobacco prod-

ucts for sale; (2) makes, manufactures, or fabricates tobacco products in this state for sale in this state; or (3) ships or transports tobacco products to retailers in this state, to be sold by those retailers.

Sec. 32. Minnesota Statutes 1984, section 297.32, subdivision 2, is amended to read:

Subd. 2. A tax is hereby imposed upon the use or storage by consumers of tobacco products in this state, and upon such consumers, at the rate of 20 percent of the cost of such tobacco products, except little cigars as defined in section 297.31, subdivision 2, clause (b). Little cigars shall be subject to the same rate of tax imposed on cigarettes in section 297.22, subdivision 1, clause (1) weighing not more than three pounds per thousand.

The tax imposed by this subdivision shall not apply if the tax imposed by subdivision 1 on such tobacco products has been paid.

This tax shall not apply to the use or storage of tobacco products in quantities of:

1. Not more than 50 cigars;
2. Not more than 10 oz. snuff or snuff powder;
3. Not more than 1 lb. smoking or chewing tobacco or other tobacco products not specifically mentioned herein, in the possession of any one consumer.

Sec. 33. Minnesota Statutes 1984, section 297.32, is amended by adding a subdivision to read:

*Subd. 9. Revenue derived from the taxes imposed by this section must be deposited by the commissioner in the state treasury and credited as follows:*

*(1) the revenue produced by the tax on six and one-half percent of the wholesale sales price or cost of the tobacco products except little cigars must be credited to the Minnesota state water pollution control fund created in section 116.16;*

*(2) the revenue produced by the tax on one percent of the wholesale sales price or cost of the tobacco products except little cigars must be credited to the public health fund; and*

*(3) the balance of the revenue must be credited to the general fund.*

Sec. 34. Minnesota Statutes 1984, section 297.35, subdivision 1, is amended to read:

Subdivision 1. On or before the eighteenth day of each calendar month every distributor with a place of business in this state shall file a return with the commissioner showing the quantity and wholesale sales price of each tobacco product (1) brought, or caused to be brought, into this state for sale; and (2) made, manufactured or fabricated in this state for sale in this state, during the preceding calendar month. Every licensed distributor outside this state shall in like manner file a return showing the quantity and wholesale sales price of each tobacco product shipped or transported to retailers in this state to be sold by those retailers, during the preceding calendar month. Returns shall be made upon forms furnished and prescribed by the commissioner and shall contain such other information as the commissioner may

require. Each return shall be accompanied by a remittance for the full tax liability shown therein, less ~~2 1/2~~ two percent of such liability as compensation to reimburse the distributor for his expenses incurred in the administration of sections 297.31 to 297.39.

**Sec. 35. [FLOOR STOCKS TAX.]**

*Subdivision 1. [CIGARETTES AND LITTLE CIGARS.] A floor stocks tax is imposed upon every person engaged in business in this state as a distributor of cigarettes on cigarettes and little cigars in the person's possession or under the person's control at 12:01 a.m. on July 1, 1985, at the following rates, subject to the discount provided in section 297.03:*

*(1) on cigarettes weighing not more than three pounds a thousand, three and one-half mills on each cigarette;*

*(2) on cigarettes weighing more than three pounds a thousand, seven mills on each cigarette.*

*Each distributor, by July 20, 1985, shall file a report with the commissioner, in the form the commissioner prescribes, showing the tobacco products on hand at 12:01 a.m. on July 1, 1985, and the amount of tax due on them. The tax imposed by this section less the discount provided in section 297.03, subdivision 5, is due and payable by August 20, 1985, and thereafter bears interest at the rate of one percent a month.*

*Subd. 2. [TOBACCO PRODUCTS.] A floor stocks tax is imposed upon every person engaged in business in this state as a distributor of tobacco products, at the rate of seven and one-half percent of the wholesale sales price of each tobacco product in the person's possession or under the person's control at 12:01 a.m. on July 1, 1985. Each distributor, by July 20, 1985, shall file a report with the commissioner, in the form the commissioner prescribes, showing the tobacco products on hand at 12:01 a.m. on July 1, 1985, and the amount of tax due on them. The tax imposed by this section less the discount provided in Minnesota Statutes, section 297.35, subdivision 1, is due and payable by August 20, 1985, and thereafter bears interest at the rate of one percent a month.*

**Sec. 36. [325E.0951] [MOTOR VEHICLE POLLUTION CONTROL SYSTEMS; RESTRICTED FILL PIPES.]**

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

*(a) [MOTOR VEHICLE.] "Motor vehicle" means a self-propelled vehicle manufactured after 1978 on which a pollution control system or a restricted gasoline fill pipe is required by state or federal law.*

*(b) [PERSON.] "Person" means an individual, firm, partnership, incorporated and unincorporated association, or any other legal or commercial entity.*

*Subd. 2. [PROHIBITED ACTS.] (a) A person may not knowingly tamper with, adjust, alter, change, or disconnect a pollution control system or a restricted gasoline fill pipe on a motor vehicle.*

*(b) A person may not advertise for sale, sell, use, or install a device that causes the pollution control system or the restricted gasoline fill pipe to be*



nonfunctional.

(c) A person may not sell or offer for sale a motor vehicle with knowledge that the pollution control system or restricted gasoline fill pipe is nonfunctional.

Subd. 3. [REPAIRS.] This section does not prevent the service, repair, or replacement of the pollution control system or restricted gasoline fill pipe for a motor vehicle if the pollution control system or restricted gasoline fill pipe remains functional.

Subd. 4. [PENALTY.] A person who violates this section is guilty of a misdemeanor.

#### Sec. 37. [REVISOR'S INSTRUCTION.]

In Minnesota Statutes 1986, the revisor shall replace the reference to "sections 62D.01 to 62D.29" wherever it occurs with "sections 62D.01 to 62D.24." The revisor shall delete references to "62E.17" from sections 62E.01; 62E.02, subdivision 1; 62E.05; 62E.09; 62E.13, subdivisions 6 and 8; 62E.14, subdivision 2; and 62E.15, subdivision 2.

#### Sec. 38. [APPROPRIATIONS.]

Subdivision 1. \$64,963,600 is appropriated to the agencies and for the purposes shown in this section. The appropriations are from the public health fund, except as otherwise indicated. Appropriations from the public health fund are available for the fiscal years ending June 30 in the years indicated. Appropriations from the water pollution control fund are available until expended.

1986                      1987

#### Subd. 2. POLLUTION CONTROL AGENCY

(a) Wastewater treatment grants                      \$19,850,000      \$21,750,000

This appropriation is from the water pollution control fund. Any shortfall in receipts to the water pollution control fund must be borne entirely by this appropriation and not by the appropriation for combined sewer overflow.

(b) Combined sewer overflow                      6,750,000      6,750,000

This appropriation is from the water pollution control fund.

(c) Analysis and abatement of lead contamination in the soil                      206,800      197,200

(d) The approved complement of the pollution control agency is increased by five positions from the public health fund and 15 positions from the water pollution control fund.

#### Subd. 3. EDUCATION

Smoking prevention programs                      611,200      712,000

The approved complement of the department of education is increased by one position.

#### Subd. 4. HEALTH

(a) Smoking prevention programs                      1,057,600      1,600,300

(b) Programs to prevent lead contamination

<i>and absorption</i>	193,300	202,700
<i>(c) Study of health care markets</i>	151,100	151,400
<i>(d) Mosquito research</i>	800,000	1,500,000

*This appropriation is only available if the federal tax on cigarettes is reduced.*

<i>(e) Maternal and child health block grant program</i>	850,000	1,450,000
--	---------	-----------

*\$900,000 of the appropriation for the second year must be used for health department programs affected by reductions in federal block grant money available to the department under section 19. In addition to this appropriation and the money available under section 19, subdivision 2, \$1,400,000 of unobligated federal maternal and child health block grant money may be used for department programs affected by the reductions under section 19.*

*\$700,000 of the appropriation for the first year and \$250,000 of the appropriation for the second year must be added to the money available for distribution under section 19, subdivisions 3 and 4.*

*\$150,000 of the appropriation for the first year and \$300,000 of the appropriation for the second year must be distributed on a competitive basis to special projects that satisfy the criteria in section 19, subdivision 8, in community health services areas that are not allocated money for grants under section 19, subdivisions 3 and 4, because of distributions made under subdivision 1 and the corresponding reduction in the allocation for that area.*

*(f) The approved complement of the department of health is increased by ten positions.*

#### **Subd. 5. EMPLOYEE RELATIONS**

<i>Develop cost containment initiatives in the state employee health benefit program</i>	30,000	30,000
--	--------	--------

*The approved complement of the department of employee relations is increased by one position.*

#### **Subd. 6. COMMERCE**

<i>Monitoring the health care market and health insurer's cost containment activities</i>	32,200	29,800
---	--------	--------

*The approved complement of the department of commerce is increased by one position.*

#### **Subd. 7. STATE PLANNING AGENCY**

<i>Support the mandated benefits commission</i>	58,000	-0-
---	--------	-----

*The approved complement of the state planning agency is increased by two positions.*

*Sec. 39. [REPEALER.]*

*Minnesota Statutes 1984, sections 62D.25; 62D.26; 62D.28; 62D.29; 62E.17; 116.18, subdivision 2; 145.884, subdivision 2; and 297.03, subdivision 10, are repealed. Minnesota Rules 1983, parts 4685.3500 to 4685.5600, are repealed.*

*Sec. 40. [EFFECTIVE DATE.]*

*The taxes imposed by this act apply to cigarettes, tobacco products, and little cigars in the possession of distributors, as defined in Minnesota Statutes, section 297.01, subdivision 7, on July 1, 1985."*

Delete the title and insert:

"A bill for an act relating to public health; providing grants to abate combined sewer overflow; increasing the state share of independent grants to municipalities facing financial hardship; requiring action to determine and decrease the health risks attributable to exposure to or absorption of lead; establishing programs to promote nonsmoking; requiring a biennial report on health care markets; providing for membership on a mandated benefits commission; authorizing statewide mosquito research; providing for the distribution of maternal and child health block grants; prohibiting the sale of candy cigarettes; increasing the taxes on cigarettes and on tobacco products; repealing authority to permit free distribution of cigarettes without affixing tax stamps; creating a Minnesota resources fund and a public health fund; protecting motor vehicle pollution control systems and restricted gasoline fill pipes; appropriating money; amending Minnesota Statutes 1984, sections 116.16, subdivision 2; 116.18, subdivisions 1, 2a, and 3a; 144.70; 145.882; 145.883, subdivision 8, and by adding a subdivision; 145.884, subdivision 1; 145.885; 145.886; 297.02, subdivision 1; 297.03, subdivision 5; 297.13, subdivision 1; 297.22, subdivision 1; 297.32, subdivisions 1 and 2, and by adding a subdivision; 297.35, subdivision 1; proposing coding for new law in Minnesota Statutes, chapters 116; 124; 144; 145; and 325E; repealing Minnesota Statutes 1984, sections 62D.25; 62D.26; 62D.28; 62D.29; 62E.17; 116.18, subdivision 2; 145.884, subdivision 2; and 297.03, subdivision 10; and Minnesota Rules 1983, parts 4685.3500 to 4685.5600."

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

Mr. Moe, R.D. from the Committee on Rules and Administration, to which was referred for proper reference under Rule 35:

S.F. No. 1527,

Reports the same back with the recommendation that the bill be re-referred to the Committee on Agriculture and Natural Resources.

Report adopted.

Mr. Moe, R.D. from the Committee on Rules and Administration, to which was re-referred

S.F. No. 708: A bill for an act relating to the legislature; providing for expanded authority of the legislative coordinating commission; establishing the position of director of protocol services; providing expiration dates for legislative commissions and boards; amending Minnesota Statutes 1984, sections 3.095; 3.29, subdivision 7; 3.30, subdivision 2; 3.3025, subdivision 2; 3.303, by adding a subdivision; 3.304, subdivision 2a; 3.305; 3.351, sub-

division 5; 3.85, subdivision 5; 3.855, by adding a subdivision; 3.865, subdivision 7; 3.9222, subdivision 6; 3.97, subdivision 5; 3C.02, subdivision 5; 3C.10, subdivision 3; 14.39; 16B.58, subdivision 6; 43A.18, subdivision 6; 86.08, subdivision 1; 115A.14, subdivision 2; and 161.1419, subdivision 4; Laws 1983, chapter 199, section 17, subdivision 5; proposing coding for new law in Minnesota Statutes, chapters 1 and 15.

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

Page 1, line 23, delete "*sections*" and insert "*section*" and delete "*and 16B.07*"

Page 2, line 21, delete "*sections*" and insert "*section*" and delete "*and 16B.07*"

Page 3, line 12, delete "*sections*" and insert "*section*" and delete "*and 16B.07*"

Page 3, line 33, delete "*shall*" and insert "*may*"

Page 3, line 34, delete "*who shall*" and insert "*to*"

Page 4, line 6, delete "*sections*" and insert "*section*" and delete "*and 16B.07*"

Page 4, line 17, reinstate the stricken language

Page 4, line 18, reinstate the stricken "*to an existing legislative commission*"

Page 5, lines 21 and 22, delete "*individual legislative uses*" and insert "*the house of representatives and the senate*"

Page 5, line 25, after the semicolon, insert "*and*"

Page 5, line 26, delete everything after "*(c)*"

Page 5, delete line 27

Page 5, line 28, delete "*(d)*"

Page 5, line 29, delete everything after "*branch*"

Page 5, line 30, delete everything before the period

Page 6, lines 10, 16, 24, and 29, delete "*sections*" and insert "*section*" and delete "*and 16B.07*"

Page 7, line 2, delete "*sections*" and insert "*section*" and delete "*and 16B.07*"

Page 8, line 22, delete "*sections*" and insert "*section*" and delete "*and 16B.07*"

Pages 8 and 9, delete section 18

Page 9, line 30, delete everything after the period

Page 9, delete line 31

Page 11, line 7, delete "*sections*" and insert "*section*" and delete "*and*"

Page 11, line 8, delete "*16B.07*"

Page 11, line 17, delete "sections" and insert "section" and delete "and 16B.07"

Pages 11 and 12, delete section 25

Page 12, line 6, delete "25" and insert "23"

Renumber the sections in sequence

Amend the title as follows:

Page 1, line 5, delete everything after the semicolon

Page 1, line 6, delete everything before "amending"

Page 1, line 17, delete "chapters" and insert "chapter" and after "1" insert a period

Page 1, delete line 18

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

Mr. Moe, R.D. from the Committee on Rules and Administration, to which was re-referred under Joint Rule 2.03, together with the committee report thereon,

H.F. No. 576: A bill for an act relating to local government; setting authority to regulate firearms and related matters; amending Minnesota Statutes 1984, sections 624.7132, subdivision 16; and 624.717; proposing coding for new law in Minnesota Statutes, chapter 471; repealing Minnesota Statutes 1984, section 624.718.

Reports the same back with the recommendation that the report from the Committee on Judiciary, shown in the Journal for May 4, 1985, be adopted; that committee recommendation being:

"the bill be amended and when so amended the bill do pass."

Amendments adopted. Report adopted.

Mr. Moe, R.D. from the Committee on Rules and Administration, to which was re-referred

S.F. No. 1080: A bill for an act relating to animals; prohibiting transfer of certain animals for use in research; regulating dealers in certain animals; amending Minnesota Statutes 1984, section 35.71.

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

## SECOND READING OF SENATE BILLS

S.F. Nos. 776, 708 and 1080 were read the second time.

## SECOND READING OF HOUSE BILLS

H.F. No. 576 was read the second time.

## MOTIONS AND RESOLUTIONS

Mr. Pogemiller moved that the name of Mr. Novak be added as a co-author

to S.F. No. 925. The motion prevailed.

Mr. Stumpf moved that S.F. No. 1041, No. 95 on General Orders, be stricken and re-referred to the Committee on Education. The motion prevailed.

Remaining on the Order of Business of Motions and Resolutions, 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. 848: A bill for an act relating to children and families; providing judicial procedures to protect the welfare of alleged child abuse victims; requiring juvenile and criminal courts to give docket priority to child abuse cases; providing certain protections for parents in juvenile court proceedings; clarifying the scope and effect of juvenile court orders; changing the crimes of "intrafamilial sexual abuse" to "criminal sexual abuse" and limiting the discretion of courts to stay sentences for these crimes; requiring that investigative interviews with child abuse victims be tape-recorded; providing a training program for child protection workers and requiring a new job classification in child protection; amending Minnesota Statutes 1984, sections 260.011, subdivision 2; 260.133, subdivision 2; 260.135, subdivision 1; 260.155, by adding a subdivision; 260.156; 260.171, subdivision 4; 260.172, subdivision 4, and by adding subdivisions; 260.191, subdivision 1, and by adding subdivisions; 260.301; 595.02, subdivision 3; 609.364 to 609.3644; and 630.36; proposing coding for new law in Minnesota Statutes, chapters 626 and 631.

### RECONSIDERATION

Having voted on the prevailing side, Mr. Knaak moved that the vote whereby the Merriam amendment to H.F. No. 848, the unofficial engrossment was adopted by the Senate on May 7, 1985, be now reconsidered.

### CALL OF THE SENATE

Ms. Reichgott imposed a call of the Senate for the proceedings on H.F. No. 848. The Sergeant at Arms was instructed to bring in the absent members.

The question recurred on the motion of Mr. Knaak.

The motion prevailed.

Mr. Merriam withdrew his amendment.

Ms. Reichgott moved to amend H.F. No. 848, the unofficial engrossment, as follows:

Page 16, line 23, before the period insert "*, including procedures for recording by audio or video tape interviews of alleged victims of child abuse*"

The motion prevailed. So the amendment was adopted.

H.F. No. 848 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 60 and nays 0, as follows:

Those who voted in the affirmative were:

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

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

### SPECIAL ORDER

H.F. No. 143: A bill for an act relating to utilities; providing that gas and electric utilities may not seek compensation from landlords for delinquent bills incurred through a service agreement solely with the tenant; proposing coding for new law in Minnesota Statutes, chapter 325E.

Mr. Frank moved to amend H.F. No. 143, the unofficial engrossment, as follows:

Page 2, line 9, delete "*obtain a lien for an*" and insert "*place a lien on the landlord's or owner's property for a tenant's*"

Page 2, line 10, after the period, insert "*A utility may recover or attempt to recover payment from a property owner where the manager, acting as the owner's agent, contracted for the utility service.*"

The motion prevailed. So the amendment was adopted.

H.F. No. 143 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 50 and nays 3, as follows:

Those who voted in the affirmative were:

Adkins	Davis	Hughes	Mehrkins	Pogemiller
Anderson	DeCramer	Isackson	Merriam	Purfeerst
Belanger	Dicklich	Jude	Nelson	Ramstad
Berg	Diessner	Knaak	Novak	Reichgott
Berglin	Dieterich	Knutson	Olson	Samuelson
Bernhagen	Frank	Kronebusch	Pehler	Schmitz
Bertram	Frederick	Laidig	Peterson, D.C.	Spear
Brataas	Frederickson	Lantry	Peterson, D.L.	Storm
Chmielewski	Freeman	Luther	Peterson, R.W.	Vega
Dahl	Gustafson	McQuaid	Petty	Willet

Messrs. Benson, Kamrath and Renneke voted in the negative.

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

### RECONSIDERATION

Mr. Petty moved that the vote whereby H.F. No. 345 failed to pass the Senate on May 8, 1985, be now reconsidered.

### CALL OF THE SENATE

Mr. Petty imposed a call of the Senate for the proceedings on H.F. No. 345. The Sergeant at Arms was instructed to bring in the absent members.

The question was taken on the adoption of the motion.

The roll was called, and there were yeas 43 and nays 23, as follows:

Those who voted in the affirmative were:

Adkins	Davis	Knaak	Moe, D.M.	Sieloff
Anderson	DeCramer	Knutson	Moe, R.D.	Solon
Belanger	Frederick	Kronebusch	Nelson	Storm
Benson	Frederickson	Laidig	Peterson, D.L.	Taylor
Berg	Gustafson	Langseth	Petty	Vega
Bernhagen	Isackson	Lantry	Purfeerst	Waldorf
Bertram	Johnson, D.E.	Lessard	Ramstad	Wegscheid
Brataas	Jude	McQuaid	Renneke	
Chmielewski	Kamrath	Mehrkins	Samuelson	

Those who voted in the negative were:

Berglin	Frank	Luther	Peterson, C.C.	Schmitz
Dahl	Freeman	Merriam	Peterson, D.C.	Spear
Dicklich	Hughes	Novak	Peterson, R.W.	Willet
Diessner	Johnson, D.J.	Olson	Pogemiller	
Dieterich	Kroening	Pehler	Reichgott	

The motion prevailed.

H.F. No. 345: A bill for an act relating to insurance; no-fault automobile; providing mandatory underinsured motorist coverage; clarifying legislative intent concerning stacking of insurance policies; coordinating the priority of applicability of security for the payment of certain benefits; amending Minnesota Statutes 1984, sections 65B.43, by adding subdivisions; 65B.47, by adding a subdivision; 65B.49, subdivision 4, and by adding a subdivision; and 65B.70, by adding a subdivision.

Mr. Freeman moved to amend H.F. No. 345, the unofficial engrossment, as follows:

Page 5, after line 31, insert:

"Sec. 11. Minnesota Statutes 1984, section 65B.70, is amended by adding a subdivision to read:

*Subd. 4a. [PREMIUM REDUCTION.] The policy premiums charged by each insurer in connection with the compulsory plan of reparation security issued or renewed and required by sections 65B.41 to 65B.71 shall be 5 percent below each insurer's policy premiums in effect on January 1, 1985, for a period of two years following final enactment."*

Renumber the sections in sequence and correct the internal references



Amend the title accordingly

The motion did not prevail. So the amendment was not adopted.

Ms. Peterson, D.C. moved to amend H.F. No. 345, the unofficial engrossment, as follows:

Page 2, line 25, after the period, insert "*An insurer shall notify policyholders that they may elect to have two or more policies added together.*"

The motion prevailed. So the amendment was adopted.

H.F. No. 345 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 38 and nays 27, as follows:

Those who voted in the affirmative were:

Adkins	Chmielewski	Kamrath	Moe, D.M.	Samuelson
Anderson	DeCramer	Knaak	Moe, R.D.	Sieloff
Belanger	Frederick	Knutson	Nelson	Storm
Benson	Frederickson	Kronebusch	Olson	Taylor
Berg	Gustafson	Laidig	Peterson, D.L.	Waldorf
Bernhagen	Isackson	Lessard	Petty	Wegscheid
Bertram	Johnson, D.E.	McQuaid	Ramstad	
Brataas	Jude	Mehrkes	Rennieke	

Those who voted in the negative were:

Berglin	Frank	Lantry	Peterson, R.W.	Spear
Dahl	Freeman	Luther	Pogemiller	Vega
Davis	Hughes	Merriam	Purfeerst	Willet
Dicklich	Johnson, D.J.	Novak	Reichgott	
Diessner	Kroening	Pehler	Schmitz	
Dieterich	Langseth	Peterson, C.C.	Solon	

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

### SPECIAL ORDER

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.

Mr. Pogemiller moved to amend H.F. No. 729, the unofficial engrossment, as follows:

Page 7, line 11, delete "*if*" and insert "*as*"

Page 19, line 28, after the comma insert "*deferred recipients or*"

Page 19, lines 28 and 29, delete "*or deferred recipients*"

Page 25, delete lines 29 to 32 and insert:

"Sec. 33. 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 amended to read:

Sec. 4. [SURVIVORS' AND FUNERAL BENEFITS.] The association may pay survivors benefits to the surviving spouse and children under 18 years of age of deceased members of the association and funeral benefits in the manner and amounts prescribed by its bylaws, subject to the provisions of this section, or as provided in Minnesota Statutes, chapter 424A. The widow surviving spouse or estate of a member who dies before his retirement from the fire department shall may receive a funeral benefit of not to exceed at least \$1,350 payable in a lump sum upon the member's death and monthly payments of \$135 from the death of the member until the widow's death or remarriage. The widow surviving spouse of a member who dies either before or following his retirement from the fire department shall receive monthly payments of not to exceed at least \$135 from the death of the member until the widow's surviving spouse's death or remarriage. Each child of a deceased member of the association shall receive monthly payments from the death of the member until the child attains 18 years of age in the amount of not to exceed at least \$27 per month. The total amount paid to the children of any member shall not exceed \$135 per month five times the monthly amount payable to one child."

Page 26, line 9, delete "27" and insert "21"

Amend the title as follows:

Page 1, line 7, after "Laws" insert "1965, chapter 592, section 4, as amended; Laws"

Page 1, lines 16 and 17, delete "Laws 1965, chapter 592, section 4, as amended;"

The motion prevailed. So the amendment was adopted.

Mr. Pogemiller then moved to amend H.F. No. 729, the unofficial engrossment, as follows:

Page 13, line 32, reinstate the stricken comma and before "apply" insert "in the event of an unforeseeable emergency."

Page 13, line 35, after the period, insert "Applications are subject to approval of the Hennepin county board of commissioners in its sole discretion. For the purposes of this section, the term "unforeseeable emergency" shall mean a severe financial hardship to the participant resulting from a sudden and unexpected illness or accident of the participant or a person dependent upon the participant, loss of participant's property due to casualty, or other similar extraordinary and unforeseeable circumstances arising as a result of events beyond the control of the participant. Applications based on foreseeable expenditures normally budgetable shall not be approved."

The motion prevailed. So the amendment was adopted.

H.F. No. 729 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 58 and nays 0, as follows:

Those who voted in the affirmative were:

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

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

### SPECIAL ORDER

S.F. No. 1171: A bill for an act relating to state lands; conveying land to Olmsted county.

Mrs. Brataas moved to amend S.F. No. 1171 as follows:

Page 3, line 3, delete "200.95" and insert "220.95"

The motion prevailed. So the amendment was adopted.

S.F. No. 1171 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 52 and nays 6, as follows:

Those who voted in the affirmative were:

Adkins	Frank	Kroening	Pehler	Schmitz
Anderson	Frederick	Kronebusch	Peterson, D.C.	Sieloff
Belanger	Frederickson	Laidig	Peterson, D.L.	Solon
Benson	Gustafson	Langseth	Peterson, R.W.	Spear
Bernhagen	Hughes	Lantry	Petty	Taylor
Bertram	Isackson	Luther	Pogemiller	Waldorf
Brataas	Johnson, D.E.	McQuaid	Purfeerst	Wegscheid
Chmielewski	Jude	Mehrkens	Ramstad	Willet
Dahl	Kamrath	Moe, D.M.	Reichgott	
DeCramer	Knaak	Novak	Renneke	
Diessner	Knutson	Olson	Samuelson	

Those who voted in the negative were:

Berg	Davis	Dieterich	Freeman	Merriam
Berglin				

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

### SPECIAL ORDER

H.F. No. 538: A bill for an act relating to taxation; updating income tax provisions to changes in the Internal Revenue Code; providing an income tax exemption for certain payments to members of the state highway patrol; amending Minnesota Statutes 1984, sections 290.01, subdivisions 20, as amended, 20a, 20b, and 21; 290.032, subdivision 1; 290.06, subdivision 14; 290.067, subdivision 1; 290.068, subdivisions 2, 4, and 5; 290.07, subdivi-

sions 5 and 7; 290.071, subdivision 5; 290.079, subdivision 1; 290.08, subdivision 26; 290.089, subdivision 7; 290.09, subdivisions 7 and 19; 290.091; 290.10; 290.13, subdivision 1; 290.131, subdivision 1; 290.132, subdivision 1; 290.133, subdivision 1; 290.135, subdivision 1; 290.136, subdivision 1; 290.14; 290.16, subdivisions 3, 7, 9, 13, 15, 16, and by adding a subdivision; 290.17, subdivision 2; 290.21, subdivision 4; 290.23, subdivision 5; 290.26, subdivision 2; 290.31, subdivisions 2, 4, and 5; 290.37, subdivision 1; 290.39, subdivision 2; 290.41, subdivision 1, and by adding a subdivision; 290.53, subdivision 9; 290.65, subdivision 16; 290.93, subdivisions 1, 3, 5, 6, 7, and 10; and 290A.03, subdivision 3; repealing Laws 1984, chapter 502, article 2, section 4.

### CALL OF THE SENATE

Mr. Merriam imposed a call of the Senate for the proceedings on H.F. No. 538. The Sergeant at Arms was instructed to bring in the absent members.

H.F. No. 538 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 34 and nays 25, as follows:

Those who voted in the affirmative were:

Adkins	Dicklich	Jude	Nelson	Reichgott
Berglin	Diessner	Kroening	Novak	Schmitz
Bertram	Dieterich	Langseth	Pehler	Vega
Chmielewski	Frank	Lantry	Peterson, C.C.	Waldorf
Dahl	Freeman	Luther	Peterson, D.C.	Wegscheid
Davis	Hughes	Merriam	Peterson, R.W.	Willet
DeCramer	Johnson, D.J.	Moe, R.D.	Petty	

Those who voted in the negative were:

Anderson	Brataas	Kamrath	McQuaid	Renneke
Belanger	Frederick	Knaak	Mehrkens	Samuelson
Benson	Frederickson	Knutson	Olson	Sieloff
Berg	Gustafson	Kronebusch	Purfeerst	Storm
Bernhagen	Isackson	Laidig	Ramstad	Taylor

So the bill passed and its title was agreed to.

### SPECIAL ORDER

H.F. No. 418: A bill for an act relating to local government; clarifying the correction of inequitable compensation relationships; amending Minnesota Statutes 1984, section 471.992; proposing coding for new law in Minnesota Statutes, chapter 471; repealing Minnesota Statutes 1984, section 471.9965.

Mr. Merriam moved to amend H.F. No. 418, as amended pursuant to Rule 49, adopted by the Senate April 24, 1985, as follows:

(The text of the amended House File is identical to S.F. No. 438.)

Page 2, line 1, delete the underlining after the headnote

Page 2, line 2, delete the underlining

The motion prevailed. So the amendment was adopted.

Ms. Berglin moved to amend H.F. No. 418, as amended pursuant to Rule

49, adopted by the Senate April 24, 1985, as follows:

(The text of the amended House File is identical to S.F. No. 438.)

Page 2, line 4, before "A" insert "*Notwithstanding section 179A.13, subdivision 2, it is not an unfair labor practice for*" and delete "may" and insert "to"

Page 2, line 5, after "*relationships*" insert a period

Page 2, line 6, delete "*as well as*" and insert "*A political subdivision may specify*"

The motion prevailed. So the amendment was adopted.

H.F. No. 418 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 7, as follows:

Those who voted in the affirmative were:

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

Those who voted in the negative were:

Anderson	Bernhagen	Knaak	McQuaid	Sieloff
Benson	Isackson			

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

### SPECIAL ORDER

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; authorizing the city of Albert Lea to establish a port authority; authorizing the city of Austin to establish a port authority.

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 48 and nays 5, as follows:

Those who voted in the affirmative were:

Adkins	Dieterich	Kroening	Olson	Schmitz
Anderson	Frank	Kronebusch	Pehler	Sieloff
Berglin	Frederick	Laidig	Peterson, D.C.	Solon
Bernhagen	Frederickson	Langseth	Petty	Spear
Bertram	Freeman	Lantry	Pogemiller	Storm
Chmielewski	Gustafson	Luther	Purfeerst	Taylor
Dahl	Hughes	McQuaid	Ramstad	Vega
Davis	Isackson	Mehrkins	Reichgott	Willet
DeCramer	Johnson, D.E.	Moe, R.D.	Renneke	
Diessner	Jude	Nelson	Samuelson	

Those who voted in the negative were:

Knaak

Merriam

Peterson, R. W.

Waldorf

Wegscheid

So the bill passed and its title was agreed to.

### SPECIAL ORDER

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.

Ms. Reichgott moved that the amendment made to H.F. No. 368 by the Committee on Rules and Administration in the report adopted April 24, 1985, pursuant to Rule 49, be stricken. The motion prevailed. So the amendment was stricken.

H.F. No. 368 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 53 and nays 1, as follows:

Those who voted in the affirmative were:

Adkins	Diessner	Knaak	Novak	Renneke
Anderson	Frank	Kroening	Olson	Samuelson
Belanger	Frederick	Kronebusch	Pehler	Schmitz
Berglin	Frederickson	Laidig	Peterson, C.C.	Spear
Bernhagen	Freeman	Langseth	Peterson, D.C.	Storm
Bertram	Gustafson	Lantry	Peterson, R.W.	Vega
Chmielewski	Hughes	Luther	Petty	Waldorf
Dahl	Isackson	McQuaid	Pogemiller	Wegscheid
Davis	Johnson, D.E.	Mehrkens	Purfeerst	Willet
DeCramer	Jude	Merriam	Ramstad	
Dicklich	Kamrath	Moe, R.D.	Reichgott	

Mr. Dieterich voted in the negative.

So the bill passed and its title was agreed to.

### SPECIAL ORDER

S.F. No. 429: A bill for an act relating to industrial development bonds; requiring the refund of application deposit to the city of Fergus Falls; appropriating money for the refund.

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 47 and nays 0, as follows:

Those who voted in the affirmative were:

Adkins	Frank	Knaak	Pehler	Spear
Anderson	Frederick	Kronebusch	Peterson, C.C.	Storm
Belanger	Frederickson	Laidig	Peterson, D.C.	Stumpf
Berglin	Freeman	Lantry	Peterson, R.W.	Vega
Bernhagen	Gustafson	Luther	Petty	Waldorf
Bertram	Hughes	McQuaid	Pogemiller	Wegscheid
Chmielewski	Isackson	Mehrkens	Purfeerst	Willet
Dahl	Johnson, D.E.	Merriam	Ramstad	
Davis	Jude	Moe, R.D.	Reichgott	
Diessner	Kamrath	Novak	Schmitz	

So the bill passed and its title was agreed to.

### SPECIAL ORDER

S.F. No. 832: A bill for an act relating to the University of Minnesota; changing restrictions on the permanent university fund so that the fund can be used to help endow professorial chairs; appropriating money; amending Minnesota Statutes 1984, section 137.022.

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 48 and nays 0, as follows:

Those who voted in the affirmative were:

Adkins	Frederick	Kroening	Pehler	Samuelson
Anderson	Frederickson	Kronebusch	Peterson, C.C.	Schmitz
Belanger	Freeman	Laidig	Peterson, D.C.	Spear
Berglin	Gustafson	Langseth	Peterson, R.W.	Stumpf
Bertram	Hughes	Lantry	Petty	Vega
Chmielewski	Isackson	Luther	Pogemiller	Waldorf
Dahl	Johnson, D.E.	Merriam	Purfeerst	Wegscheid
Davis	Jude	Moe, R.D.	Ramstad	Willet
DeCramer	Kamrath	Novak	Reichgott	
Frank	Knaak	Olson	Renneke	

So the bill passed and its title was agreed to.

### SPECIAL ORDER

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; 570.10; and 570.13; proposing coding for new law in Minnesota Statutes, chapter 570.

Mr. Luther moved to amend H.F. No. 449, as amended pursuant to Rule 49, adopted by the Senate April 26, 1985, as follows:

(The text of the amended House File is identical to S.F. No. 591.)

Page 10, line 17, after "is" insert "not"

Page 11, line 8, delete "unless" and insert "or"

Page 11, line 9, after the period insert *"In establishing the amount of the bond, the court shall consider the value and nature of the property attached, the method of retention or storage of the property, the potential harm to the respondent or any party, and other factors that the court deems appropriate."*

Page 13, line 9, delete "writ" and insert "order"

The motion prevailed. So the amendment was adopted.

H.F. No. 449 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 50 and nays 0, as follows:

Those who voted in the affirmative were:

Adkins	Diessner	Kamrath	Moe, R.D.	Reichgott
Anderson	Dieterich	Knaak	Novak	Renneke
Belanger	Frank	Kroening	Olson	Samuelson
Berglin	Frederick	Kronebusch	Peterson, C.C.	Spear
Bertram	Freeman	Laidig	Peterson, D.C.	Stumpf
Brataas	Gustafson	Langseth	Peterson, R.W.	Taylor
Chmielewski	Hughes	Lantry	Petty	Vega
Dahl	Isackson	Luther	Pogemiller	Waldorf
Davis	Johnson, D.E.	McQuaid	Purfeerst	Wegscheid
DeCramer	Jude	Merriam	Ramstad	Willet

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

### RECESS

Mr. Moe, R.D. moved that the Senate do now recess subject to the call of the President. The motion prevailed.

After a brief recess, the President called the Senate to order.

### APPOINTMENTS

Mr. Moe, R.D. from the Subcommittee on Committees recommends that the following Senators be and they hereby are appointed as a Conference Committee on:

S.F. No. 1523: Messrs. Waldorf, Dicklich, Hughes, Nelson and Taylor.

H.F. No. 1109: Mrs. Adkins, Mr. Bernhagen and Ms. Peterson, D.C.

Mr. Moe, R.D. moved that the foregoing appointments be approved. The motion prevailed.

### SPECIAL ORDER

H.F. No. 385: A bill for an act relating to occupations and professions; providing advertising restrictions for plumbers; proposing coding for new law in Minnesota Statutes, chapter 326.

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 48 and nays 0, as follows:

Those who voted in the affirmative were:

Adkins	DeCramer	Isackson	Lantry	Ramstad
Anderson	Dicklich	Johnson, D.E.	McQuaid	Reichgott
Belanger	Diessner	Johnson, D.J.	Merriam	Samuelson
Berg	Dieterich	Jude	Moe, R.D.	Stumpf
Berglin	Frank	Kamrath	Novak	Vega
Bertram	Frederick	Knaak	Olson	Waldorf
Brataas	Frederickson	Kroening	Peterson, C.C.	Wegscheid
Chmielewski	Freeman	Kronebusch	Peterson, R.W.	Willet
Dahl	Gustafson	Laidig	Petty	
Davis	Hughes	Langseth	Pogemiller	

So the bill passed and its title was agreed to.

### SPECIAL ORDER

S.F. No. 925: A bill for an act relating to economic development; granting



certain powers to municipalities; amending Minnesota Statutes 1984, sections 16B.61, subdivision 3; 273.73, subdivisions 9, 12, and by adding a subdivision; 273.74, subdivision 3; 273.75, subdivision 1, and by adding a subdivision; 273.76, subdivision 1; 458.16, by adding a subdivision; 462.352, subdivisions 5, 7, 9, 10, 15, and by adding a subdivision; 462.357, subdivision 1; 462.358, subdivision 2a; 472.08, subdivision 1; 472A.03; 474.02, by adding a subdivision; Laws 1980, chapter 595, section 3, subdivision 1; proposing coding for new law in Minnesota Statutes, chapter 465; and proposing coding for new law as Minnesota Statutes, chapter 472B.

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 43 and nays 9, as follows:

Those who voted in the affirmative were:

Adkins	Dicklich	Johnson, D.J.	Moe, R.D.	Schmitz
Anderson	Diessner	Kamrath	Olson	Spear
Belanger	Frank	Knaak	Peterson, C.C.	Stumpf
Berg	Frederick	Kronebusch	Peterson, D.C.	Taylor
Bertram	Frederickson	Laidig	Petty	Vega
Brataas	Freeman	Langseth	Pogemiller	Wegscheid
Chmielewski	Gustafson	Lantry	Purfeerst	Willet
Dahl	Hughes	Luther	Ramstad	
Davis	Johnson, D.E.	McQuaid	Reichgott	

Those who voted in the negative were:

Berglin	Isackson	Kroening	Peterson, R.W.	Waldorf
Dieterich	Jude	Merriam	Samuelson	

So the bill passed and its title was agreed to.

### SPECIAL ORDER

S.F. No. 1103: A bill for an act relating to intoxicating liquor; permitting counties to issue off-sale licenses and combination licenses in towns; amending Minnesota Statutes 1984, section 340.11, subdivision 10a; repealing Minnesota Statutes 1984, section 340.11, subdivision 10b.

Mr. Dieterich moved to amend S.F. No. 1103 as follows:

Page 2, line 17, delete "within" and insert "less than"

Page 2, line 18, delete the first "of" and insert "by the most direct route from" and before "city" insert "statutory or home rule" and delete everything after the period

Page 2, delete lines 19 to 21

Page 2, after line 29, insert:

*"(h) Notwithstanding any provision of this subdivision or Laws 1973, chapter 566, as amended by Laws 1974, chapter 200, a county board may transfer or renew a license that was issued by a town board under subdivision 10b prior to January 1, 1985."*

The motion prevailed. So the amendment was adopted.

S.F. No. 1103 was then progressed.

**RECESS**

Mr. Moe, R.D. moved that the Senate do now recess until 7:00 p.m. The motion prevailed.

The hour of 7:00 p.m. having arrived, the President called the Senate to order.

**CALL OF THE SENATE**

Mr. Moe, R.D. imposed a call of the Senate. The Sergeant at Arms was instructed to bring in the absent members.

**SPECIAL ORDER**

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.

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 49 and nays 0, as follows:

Those who voted in the affirmative were:

Adkins	Dicklich	Kamrath	Olson	Schmitz
Anderson	Diessner	Knaak	Pehler	Sieloff
Benson	Frank	Kroening	Peterson, D.C.	Spear
Berglin	Frederickson	Laidig	Peterson, D.L.	Storm
Bernhagen	Freeman	Langseth	Pogemiller	Stumpf
Bertram	Gustafson	Lantry	Purfeerst	Taylor
Chmielewski	Hughes	Luther	Ramstad	Waldorf
Dahl	Isackson	Mehrkins	Reichgott	Wegscheid
Davis	Johnson, D.E.	Moe, D.M.	Renneke	Willet
DeCramer	Jude	Moe, R.D.	Samuelson	

So the bill passed and its title was agreed to.

**SPECIAL ORDER**

S.F. No. 363: A bill for an act relating to state government; proposing an amendment to the Minnesota Constitution, article IV, section 23; article V, sections 1, 3, and 4; article VII, section 8; article VIII, section 2; article XI, sections 6, 7, 8, and 10; and article XIII, section 11; combining the offices of state treasurer, state auditor, and secretary of state into the office of state comptroller; providing that the first comptroller would be elected in 1990; transferring the powers, responsibilities, and duties of the state auditor, the secretary of state, and the state treasurer to the state comptroller.

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 37 and nays 25, as follows:

Those who voted in the affirmative were:

Adkins	Frank	Merriam	Pogemiller	Stumpf
Berglin	Freeman	Moe, D.M.	Purfeerst	Vega
Bertram	Hughes	Moe, R.D.	Ramstad	Waldorf
Chmielewski	Johnson, D.J.	Nelson	Reichgott	Wegscheid
DeCramer	Kroening	Novak	Schmitz	Willet
Dicklich	Langseth	Peterson, C.C.	Sieloff	
Diessner	Lantry	Peterson, D.C.	Solon	
Dieterich	Luther	Petty	Spear	

Those who voted in the negative were:

Anderson	Dahl	Johnson, D.E.	Laidig	Peterson, D.L.
Benson	Davis	Jude	McQuaid	Peterson, R.W.
Berg	Frederick	Kamrath	Mehrkins	Renneke
Bernhagen	Frederickson	Knaak	Olson	Storm
Brataas	Isackson	Kronebusch	Pehler	Taylor

So the bill passed and its title was agreed to.

### SPECIAL ORDER

H.F. No. 213: A bill for an act relating to the maltreatment of minors or vulnerable adults in certain licensed facilities; providing for notification of parents or guardians after reports of alleged abuse; clarifying certain provisions; amending Minnesota Statutes 1984, sections 626.556, subdivisions 10b, 11, and by adding a subdivision; and 626.557, subdivision 12, and by adding a subdivision.

Mr. Sieloff moved to amend H.F. No. 213, the unofficial engrossment, as follows:

Page 1, line 26, delete the first comma and insert "and" and delete ", and 6"

Pages 6 to 9, delete sections 6 and 7

Amend the title as follows:

Page 1, lines 2 and 3, delete "or vulnerable adults"

Page 1, line 7, after the semicolon, insert "and"

Page 1, line 8, delete everything after "subdivision"

Page 1, line 9, delete everything before the period

The motion did not prevail. So the amendment was not adopted.

Mr. Spear moved to amend H.F. No. 213, the unofficial engrossment, as follows:

Page 7, lines 2 and 26, after the first "person" insert " , to any other vulnerable adult in the facility who is not under guardianship or conservatorship of the person."

The motion prevailed. So the amendment was adopted.

H.F. No. 213 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 0, as follows:

Those who voted in the affirmative were:

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

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

### CALL OF THE SENATE

Mr. Moe, R.D. imposed a call of the Senate for the balance of this evening's Session. The Sergeant at Arms was instructed to bring in the absent members.

### SPECIAL ORDER

H.F. No. 847: 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.

Mrs. Brataas moved to amend H.F. No. 847, as amended pursuant to Rule 49, adopted by the Senate April 24, 1985, as follows:

(The text of the amended House File is identical to S.F. No. 41.)

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 calendar 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 ~~45~~ 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 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 SECURITY.]

*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 commis-*



sioner 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 procedures 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)~~ (e) the director of mediation services, ~~(f)~~ (f) the workers' compensation division in the department of labor and industry, ~~(g)~~ (g) the workers' compensation court of appeals, ~~(h)~~ (h) the board of pardons; or ~~(i)~~ (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 141 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 be-

cause 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~~ 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 pur-



pose 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 addi-

tional 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, subdivisions 1 and 2; proposing coding for new law in Minnesota Statutes, chapter 268; repealing Minnesota Statutes 1984, section 268.04, subdivision 30."

The question was taken on the adoption of the amendment.

The roll was called, and there were yeas 30 and nays 37, as follows:

Those who voted in the affirmative were:

Anderson	Brataas	Kamrath	Mehrkens	Schmitz
Belanger	Frederick	Knaak	Olson	Sieloff
Benson	Frederickson	Knutson	Peterson, D.L.	Storm
Berg	Gustafson	Kronebusch	Purfeerst	Stumpf
Bernhagen	Isackson	Laidig	Ramstad	Taylor
Bertram	Johnson, D.E.	McQuaid	Renneke	Wegscheid

Those who voted in the negative were:

Adkins	Dieterich	Lantry	Pehler	Solon
Berglin	Frank	Lessard	Peterson, C.C.	Spear
Chmielewski	Freeman	Luther	Peterson, D.C.	Vega
Dahl	Hughes	Merriam	Peterson, R.W.	Waldorf
Davis	Johnson, D.J.	Moe, D.M.	Petty	Willet
DeCramer	Jude	Moe, R.D.	Pogemiller	
Dicklich	Kroening	Nelson	Reichgott	
Diessner	Langseth	Novak	Samuelson	

The motion did not prevail. So the amendment was not adopted.

Mr. Frederick moved to amend H.F. No. 847, as amended pursuant to Rule 49, adopted by the Senate April 24, 1985, as follows:

(The text of the amended House File is identical to S.F. No. 41.)

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.

*It is the specific intent of the legislature that unemployment compensation cases shall be decided on their merits and that the unemployment compensation laws are not remedial in any sense and are not to be given a broad liberal construction.*

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 (4) \$10,300 for the calendar 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 ~~45~~ 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 \$68.*

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 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.] Notwithstanding the provisions of subdivision 2, 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 credit weeks in employment which is not seasonal, in addition to any credit weeks in seasonal employment. For the purposes of this subdivision, "seasonal employment" means:

(1) 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; or

(2) employment in activities relating to the first processing of seasonally produced agricultural products in which, because of the seasonal nature thereof, it is customary to operate only during a regularly recurring period or periods of less than 18 weeks in any calendar year.

Sec. 8. 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. 9. 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~~ eight calendar weeks have elapsed following his separation and the individual has earned ~~four~~ eight 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 at-

tempted 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. 10. 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~~ eight calendar weeks have elapsed following his refusal or failure and he has earned ~~four~~ eight 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; 80 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 75 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. 11. [REPEALER.]

*Minnesota Statutes 1984, section 268.04, subdivision 30, is repealed.*

Sec. 12. [EFFECTIVE DATE.]

*Sections 2, 4, and 5, are effective January 1, 1986. Sections 3, 6, 8, 9, and 10, are effective July 1, 1985.*

## ARTICLE 2

### TRANSFER OF AUTHORITY TO OFFICE OF ADMINISTRATIVE HEARINGS

Section 1. [TRANSFER FROM DEPARTMENT OF ECONOMIC SECURITY.]

*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 referee positions at the department of economic security are transferred to the office of administrative hearings. Persons employed in the transferred referee positions may be considered without preference for the transferred positions in the office of administrative hearings. The chief administrative law judge may designate as a supervisory unemployment judge any administrative law, compensation, or unemployment judge. 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 unemployment judge of the office of administrative hearings,~~ (d) the social security disability determination program in the department of economic security, ~~(d)~~ (e) the director of mediation services, ~~(e)~~ (f) the workers' compensation division in the department of labor and industry, ~~(f)~~ (g) the workers' compensation court of appeals, ~~(g)~~ (h) the board of pardons, or ~~(h)~~ (i) the public employment relations board.

Sec. 3. Minnesota Statutes 1984, section 14.48, is amended to read:

**14.48 [CREATION OF OFFICE OF ADMINISTRATIVE HEARINGS; CHIEF ADMINISTRATIVE LAW JUDGE APPOINTED; OTHER ADMINISTRATIVE LAW JUDGES APPOINTED.]**

A state office of administrative hearings is created. The office shall be under the direction of a chief administrative law judge who shall be learned in the law and appointed by the governor, with the advice and consent of the senate, for a term ending on June 30 of the sixth calendar year after appointment. Senate confirmation of the chief administrative law judge shall be as provided by section 15.066. The chief administrative law judge shall appoint additional administrative law judges and compensation judges to serve in his office as necessary to fulfill the duties prescribed in sections 14.48 to 14.56. All administrative law judges, *unemployment judges*, and compensation judges shall be in the classified service except that the chief administrative law judge shall be in the unclassified service, but may be removed from his position only for cause. All administrative law judges shall have demonstrated knowledge of administrative procedures and shall be free of any political or economic association that would impair their ability to function officially in a fair and objective manner. All workers' compensation judges shall be learned in the law, shall have demonstrated knowledge of workers' compensation laws and shall be free of any political or economic association that would impair their ability to function officially in a fair and objective manner.

Sec. 4. 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 141~~ *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 adminis-

trative 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. 5. 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.*

Sec. 6. 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. 7. 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. 8. 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. 9. 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. 10. 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. 11. 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~~ 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. 12. 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 administrative law judge. 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. 13. 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. 14. 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. 15. 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. 16. 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. 17. 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 pur-



pose 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. 18. 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. 19. 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. 20. 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 addi-

tional 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. 21. 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. 22. 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. 23. [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; making the waiting week nonreimbursable; 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; 14.48; 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, subdivision 1; 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, subdivisions 1 and 2; repealing Minnesota Statutes 1984, section 268.04, subdivision 30."

The question was taken on the adoption of the amendment.

The roll was called, and there were yeas 30 and nays 36, as follows:

Those who voted in the affirmative were:

Belanger	Frederick	Kamrath	Mehrkens	Sieloff
Benson	Frederickson	Knaak	Olson	Storm
Bernhagen	Gustafson	Knutson	Peterson, D.L.	Stumpf
Bertram	Isackson	Kronebusch	Purfeerst	Taylor
Brataas	Johnson, D.E.	Laidig	Ramstad	Wegscheid
DeCramer	Jude	McQuaid	Renneke	Willet

Those who voted in the negative were:

Adkins	Dieterich	Lessard	Peterson, C.C.	Solon
Anderson	Frank	Luther	Peterson, D.C.	Spear
Berglin	Freeman	Merriam	Peterson, R.W.	Vega
Chmielewski	Hughes	Moe, D.M.	Petty	Waldorf
Dahl	Johnson, D.J.	Moe, R.D.	Pogemiller	
Davis	Kroening	Nelson	Reichgott	
Dicklich	Langseth	Novak	Samuelson	
Diessner	Lantry	Pehler	Schmitz	

The motion did not prevail. So the amendment was not adopted.

H.F. No. 847 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 37 and nays 28, as follows:

Those who voted in the affirmative were:

Adkins	Frank	Lessard	Peterson, C.C.	Spear
Berglin	Freeman	Luther	Peterson, D.C.	Stumpf
Chmielewski	Hughes	Merriam	Peterson, R.W.	Vega
Dahl	Johnson, D.J.	Moe, D.M.	Petty	Waldorf
Davis	Jude	Moe, R.D.	Pogemiller	Willet
Dicklich	Kroening	Nelson	Reichgott	
Diessner	Langseth	Novak	Samuelson	
Dieterich	Lantry	Pehler	Solon	

Those who voted in the negative were:

Anderson	DeCramer	Kamrath	Mehrkens	Sieloff
Belanger	Frederick	Knaak	Olson	Storm
Benson	Frederickson	Knutson	Peterson, D.L.	Taylor
Bernhagen	Gustafson	Kronebusch	Ramstad	Wegscheid
Bertram	Isackson	Laidig	Renneke	
Brataas	Johnson, D.E.	McQuaid	Schmitz	

So the bill passed and its title was agreed to.

### SPECIAL ORDER

H.F. No. 18: A bill for an act relating to game and fish; authorizing resident licenses for trainees at Camp Ripley during open seasons; amending Minnesota Statutes 1984, section 98.47, subdivision 3.

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:

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

So the bill passed and its title was agreed to.

### SPECIAL ORDER

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.

Mr. Moe, D.M. moved to amend H.F. No. 558, as amended pursuant to Rule 49, adopted by the Senate April 24, 1985, as follows:

(The text of the amended House File is identical to S.F. No. 541.)

Page 1, after line 11, insert:

“Section 1. Minnesota Statutes 1984, section 473.129, is amended by adding a subdivision to read:

*Subd. 7. [PROCEDURES; ETHICS; ADMINISTRATION.] The council shall adopt uniform standards and procedures for codes of ethics of the regional transit board and the metropolitan commissions, including those defined in section 473.121, subdivisions 7, 12, 14a, 15, 21, and 32, and au-*

*thorized by section 473.553. The regional transit board and each commission shall adopt an ethics code addressing matters for which the council has adopted uniform standards and procedures and in general conformance with those standards and procedures."*

Renumber the sections in sequence

Amend the title as follows:

Page 1, line 8, after "sections" insert "473.129, by adding a subdivision;"

The motion prevailed. So the amendment was adopted.

Mr. Moe, D.M. then moved to amend H.F. No. 558, as amended pursuant to Rule 49, adopted by the Senate April 24, 1985, as follows:

(The text of the amended House File is identical to S.F. No. 541.)

Page 1, after line 11, insert:

"Section 1. Minnesota Statutes 1984, section 473.129, is amended by adding a subdivision to read:

*Subd. 7. [PERSONNEL CODE.] The council shall by resolution adopt guidelines for a personnel code of the regional transit board and the metropolitan commissions, including those defined in section 473.121, subdivisions 7, 12, 14a, 15, 21, and 32, and authorized by section 473.553. The board and each commission shall adopt a personnel code in general conformance with the personnel code adopted by the council under this subdivision."*

Renumber the sections in sequence

Amend the title as follows:

Page 1, line 8, after "sections" insert "473.129, by adding a subdivision;"

Mr. Jude questioned whether the amendment was germane.

The President ruled that the amendment was germane.

The question was taken on the adoption of the Moe, D.M. amendment.

The roll was called, and there were yeas 22 and nays 28, as follows:

Those who voted in the affirmative were:

Berglin	Dicklich	Luther	Pogemiller	Wegscheid
Chmielewski	Dieterich	Merriam	Sieloff	Willett
Dahl	Frank	Moe, D.M.	Spear	
Davis	Hughes	Moe, R.D.	Stumpf	
DeCramer	Knaak	Petty	Waldorf	

Those who voted in the negative were:

Adkins	Frederickson	Kamrath	McQuaid	Samuelson
Anderson	Freeman	Kroening	Mehrken	Schmitz
Belanger	Gustafson	Kronebusch	Novak	Storm
Benson	Isackson	Laidig	Olson	Taylor
Bertram	Johnson, D.E.	Lantry	Reichgott	
Diessner	Jude	Lessard	Renneke	

The motion did not prevail. So the amendment was not adopted.

Mr. Merriam moved to amend H.F. No. 558, as amended pursuant to Rule 49, adopted by the Senate April 24, 1985, as follows:

(The text of the amended House File is identical to S.F. No. 541.)

Pages 1 and 2, delete section 1

Renumber the sections in sequence

Amend the title as follows:

Page 1, line 2, delete "providing"

Page 1, delete line 3

Page 1, line 4, delete "facilities property;"

Page 1, line 8, delete everything before "473.704" and insert "section"

The motion did not prevail. So the amendment was not adopted.

H.F. No. 558 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 44 and nays 3, as follows:

Those who voted in the affirmative were:

Adkins	Dicklich	Johnson, D.J.	Merriam	Schmitz
Anderson	Diessner	Jude	Moe, D.M.	Sieloff
Belanger	Frank	Kamrath	Moe, R.D.	Spear
Benson	Frederickson	Kroening	Novak	Storm
Bertram	Freeman	Kronebusch	Peterson, C.C.	Stumpf
Chmielewski	Gustafson	Laidig	Petty	Taylor
Dahl	Hughes	Lantry	Pogemiller	Wegscheid
Davis	Isackson	Luther	Reichgott	Willet
DeCramer	Johnson, D.E.	Mehrkens	Renneke	

Messrs. Dieterich, Lessard and Waldorf voted in the negative.

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

Without objection, the Senate reverted to the Orders of Business of Messages From the House, Reports of Committees, Second Reading of Senate Bills and Second Reading of House Bills.

## MESSAGES FROM THE HOUSE

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. 5: A bill for an act relating to alcoholic beverages; increasing the age for licensing, sale, purchase, consumption, possession, and furnishing of alcoholic beverages; establishing programs for education on avoidable health risks related to alcohol and other drugs; increasing the fee for the reinstatement of drivers licenses revoked for alcohol-related violations; appropriating money; amending Minnesota Statutes 1984, sections 171.29, subdivision 2; 340.02, subdivision 8; 340.035, subdivision 1; 340.039;



340.119, subdivision 2; 340.13, subdivision 12; 340.403, subdivision 3; 340.73, subdivision 1; 340.731; 340.732; 340.79; and 340.80.

Senate File No. 5 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned May 9, 1985

Mr. Diessner moved that the Senate do not concur in the amendments by the House to S.F. No. 5, and that a Conference Committee of 5 members be appointed by the Subcommittee on Committees on the part of the Senate, to act with a like Conference Committee to be appointed on the part of the House. The motion prevailed.

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 five members of the House, on the amendments adopted by the House to the following Senate File:

S.F. No. 1523: A bill for an act relating to the organization and operation of state government; appropriating money for education and related purposes to the department of education, higher education coordinating board, state board of vocational technical education, state board for community colleges, state university board, board of regents of the University of Minnesota, the Mayo medical foundation, and the College of Saint Thomas, with certain conditions; providing for state board of education membership and staff assistance, a different source for an annual appropriation, student financial aid, course equivalency, common numbering, general education requirements, fees and licenses, vocational programs and budgets, vocational board policymaking, and emergency rulemaking; amending Minnesota Statutes 1984, sections 121.02, subdivision 1; 123.743; 125.08; 136A.09; 136A.095; 136A.101; 136A.121, subdivisions 1, 2, 3, 4, 5, 6, 7, 9, 10, 11, 12, 13, 16, and by adding a subdivision; 136A.132, subdivisions 3, 4, 5, and 6; 136A.162; 136C.04, subdivision 15; 136C.08, subdivision 2; 136C.13, subdivision 3, and by adding a subdivision; 136C.26, subdivisions 4 and 5; 136C.28, subdivision 2; 136C.33, subdivision 1; 136C.34; 136C.36; 141.25, subdivision 8; and 141.26, subdivision 5; proposing coding for new law in Minnesota Statutes, chapters 124; 135A; and 136; repealing Minnesota Statutes 1984, sections 136A.121, subdivisions 8 and 14; 136C.26, subdivisions 2 and 8; 136C.28, subdivisions 3, 4, 5, 6, and 7; 136C.33, subdivisions 3 and 4; 136C.37; and 136C.38.

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

Haukoos, Boo, Frerichs, Rose and Carlson, L.

Senate File No. 1523 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned May 9, 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 five

members of the House, on the amendments adopted by the House to the following Senate File:

S.F. No. 1525: A bill for an act relating to the organization and operation of state government; authorizing cost containment programs in medical assistance and general assistance medical care programs; establishing a permanency planning program for children at risk of out-of-home placement; appropriating money for human services, corrections, health, and other purposes with certain conditions; amending Minnesota Statutes 1984, sections 62D.12, by adding a subdivision; 62E.06, subdivision 1; 129A.03; 214.06, subdivision 1; 241.01, subdivision 7; 241.71; 252.025, subdivision 1; 254.05; 256.045, subdivision 3, and by adding a subdivision; 256.737; 256.82, subdivision 2; 256.87, subdivision 1; 256.969, subdivisions 1, 2, and by adding a subdivision; 256B.02, by adding a subdivision; 256B.04, subdivision 14; 256B.062; 256B.19, subdivision 1; 256B.48, by adding a subdivision; 256B.69, subdivision 4; 256D.01, subdivisions 1a and 1b; 256D.03, subdivisions 4 and 6; 256D.37, subdivisions 1 and 2; 256E.08, subdivision 1; 260.311, subdivision 5; 260.38; 268.38, subdivisions 2, 10, and 11; 268.685; 290.089, subdivision 2; 363.03, by adding a subdivision; 390.11, by adding a subdivision; 393.07, subdivision 2; 401.01, subdivision 1; 401.13; 517.08, subdivisions 1b and 1c; 611A.22; and 611A.34, subdivision 1; Laws 1984, chapter 616, section 1; proposing coding for new law in Minnesota Statutes, chapters 62A; 144; 256; and 256B; proposing coding for new law as Minnesota Statutes, chapter 256F; repealing Minnesota Statutes 1984, sections 256.045, subdivision 2; 256.966, subdivision 2; 256.967; 259.405; and 268.686.

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

Anderson, R.; Carlson, J.; Stanius; Becklin and Jennings, L.

Senate File No. 1525 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned May 9, 1985

Mr. President:

I have the honor to announce that the House refuses to concur in the Senate amendments to House File No. 848:

H.F. No. 848: A bill for an act relating to children and families; providing judicial procedures to protect the welfare of alleged child abuse victims; requiring juvenile and criminal courts to give docket priority to child abuse cases; providing certain protections for parents in juvenile court proceedings; clarifying the scope and effect of juvenile court orders; changing the crimes of "intrafamilial sexual abuse" to "criminal sexual abuse" and limiting the discretion of courts to stay sentences for these crimes; requiring that investigative interviews with child abuse victims be tape-recorded; providing a training program for child protection workers and requiring a new job classification in child protection; amending Minnesota Statutes 1984, sections 260.011, subdivision 2; 260.133, subdivision 2; 260.135, subdivision 1; 260.155, by adding a subdivision; 260.156; 260.171, subdivision 4; 260.172, subdivision 4, and by adding subdivisions; 260.191, subdivision 1, and by adding subdivisions; 260.301; 595.02, subdivision 3; 609.364 to

609.3644; and 630.36; proposing coding for new law in Minnesota Statutes, chapters 626 and 631.

The House respectfully requests that a Conference Committee of five members be appointed thereon.

Blatz, Valento, Seaberg, Kelly and Vellenga have been appointed as such committee on the part of the House.

House File No. 848 is herewith transmitted to the Senate with the request that the Senate appoint a like committee.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted May 9, 1985

Ms. Reichgott moved that the Senate accede to the request of the House for a Conference Committee on H.F. No. 848, and that a Conference Committee of 5 members be appointed by the Subcommittee on Committees on the part of the Senate, to act with a like Conference Committee appointed on the part of the House. The motion prevailed.

Mr. President:

I have the honor to announce that the House refuses to concur in the Senate amendments to House File No. 242:

H.F. No. 242: A bill for an act relating to commerce; requiring manufacturers to make certain new motor vehicle warranty disclosures directly to consumers; amending Minnesota Statutes 1984, section 325F.665, subdivision 3.

The House respectfully requests that a Conference Committee of three members be appointed thereon.

Bennett, Sparby and Marsh have been appointed as such committee on the part of the House.

House File No. 242 is herewith transmitted to the Senate with the request that the Senate appoint a like committee.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted May 9, 1985

Mr. Dahl moved that the Senate accede to the request of the House for a Conference Committee on H.F. No. 242, and that a Conference Committee of 3 members be appointed by the Subcommittee on Committees on the part of the Senate, to act with a like Conference Committee appointed on the part of the House. The motion prevailed.

### REPORTS OF COMMITTEES

Mr. Moe, R.D. moved that the Committee Reports read by the Secretary be now adopted. The motion prevailed.

Mr. Willet from the Committee on Finance, to which was re-referred

S.F. No. 977: A bill for an act relating to elections; changing certain filing provisions; providing for training of election judges and election officials;

requiring publication of certain election guides; excepting certain election judges from receiving compensation; changing certain canvassing procedures; providing for certain recounts; defining terms; changing certain deadlines; changing certain procedures relating to voting machines; appropriating money; amending Minnesota Statutes 1984, sections 204B.09, subdivision 1; 204B.25, subdivision 1; 204B.27, subdivision 5, and by adding a subdivision; 204B.31; 204C.32, subdivision 1; 204C.33, subdivision 1; 204C.35, by adding a subdivision; 206.56, by adding a subdivision; 206.58, subdivision 2 and by adding a subdivision; 206.82, by adding a subdivision; and 206.83.

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

Mr. Willet from the Committee on Finance, to which was re-referred

S.F. No. 866: A bill for an act relating to solid waste and sewage sludge management; restricting land disposal of solid waste in the metropolitan area; providing for the financing of resource recovery facilities in the metropolitan area by counties and the metropolitan council; changing provisions relating to designation plans, local disposal fees, metropolitan sludge and sludge ash facilities, and metropolitan county ordinances; granting and clarifying the powers which may be exercised by a county located outside the metropolitan area if it enters into an agreement with a metropolitan county for solid waste or resource recovery purposes; defining terms; allocating and appropriating money from the metropolitan landfill contingency action and abatement funds; amending Minnesota Statutes 1984, sections 115A.03, subdivision 27; 115A.84, subdivisions 3 and 4; 115A.919; 400.04, subdivision 1; 473.153, subdivisions 5, 6b, and 7; 473.801, subdivision 1; 473.811, subdivisions 5 and 5a; 473.823, subdivision 6; 473.831; 473.840, subdivision 2; 473.842, by adding subdivisions; 473.843, subdivision 7; and 473.844, subdivisions 2 and 5; Laws 1984, chapter 644, section 81, subdivision 2; proposing coding for new law in Minnesota Statutes, chapters 115A and 473; repealing Laws 1984, chapter 644, section 83.

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

Pages 13 and 14, delete section 24 and insert:

“Sec. 24. [APPROPRIATION.]

*Subdivision 1. [PURPOSES.] Until June 30, 1987, the balance in the metropolitan landfill abatement fund after the appropriations in Laws 1984, chapter 644, section 81, subdivisions 2 and 3; and Minnesota Statutes, sections 473.843, subdivision 7; and 473.844, subdivision 5, is appropriated to the pollution control agency for payment to the metropolitan council and may be used by the council for the following purposes:*

<i>(a) Grants and loans for market development for reusable and recyclable waste materials</i>	<i>\$157,100</i>	<i>\$140,000</i>
--	------------------	------------------

*(b) Technical assistance and administration of*

grants, loans, and municipal cost recovery payments	\$78,500	\$70,000
(c) Solid waste management planning assistance in the metropolitan area	\$267,000	\$163,000
(d) Grants and loans for resource recovery and public education	\$1,067,940	\$652,000

*Subd. 2. [WORK PROGRAM REQUIRED.] Before this money may be spent the metropolitan council must submit to the legislative commission on waste management a work program in the form determined by the commission and receive the recommendation of the commission on the work program. The recommendation is advisory only."*

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

Mr. Willet from the Committee on Finance, to which was re-referred

S.F. No. 723: 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.

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

Page 5, line 8, delete "be"

Page 5, line 9, delete "completed by July 1, 1987, and"

Page 8, delete section 8

Pages 9 to 11, delete sections 11 to 13

Page 11, line 15, after the dollar sign, insert "200,000"

Page 11, line 18, after the dollar sign, insert "1,500,000"

Page 11, line 23, after the dollar sign, insert "300,000"

Page 11, line 30, delete "14" and insert "9"

Renumber the sections in sequence

Amend the title as follows:

Page 1, lines 5 and 6, delete "accelerating an aspen recycling program;"

Page 1, lines 8 and 9, delete "changing distribution of the unrefunded gas tax;"

Page 1, line 10, delete "sections" and insert "section"

Page 1, line 11, delete everything before "proposing"

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

Mr. Willet from the Committee on Finance, to which was re-referred

S.F. No. 339: A bill for an act relating to human services; establishing a program in the department of economic security to distribute grants to centers that provide independent living services; appropriating money; amending Minnesota Statutes 1984, section 129A.01; proposing coding for new law in Minnesota Statutes, chapter 129A.

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

Page 4, delete section 3

Amend the title as follows:

Page 1, line 5, delete "appropriating money;"

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

Mr. Willet from the Committee on Finance, to which was re-referred

S.F. No. 719: A bill for an act relating to wild animals; authorizing the commissioner of natural resources to permit, on an experimental basis, the taking of two deer by one hunter, under conditions and restrictions prescribed by order; requiring the removal of elk from the state; allowing compensation for damage of crops by elk; taking elk damaging crops; proposing coding for new law in Minnesota Statutes, chapter 97.

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

Page 1, line 25, delete "A crop owner shall be"

Page 1, delete lines 26 and 27

Pages 2 and 3, delete sections 3 and 4, and insert:

"Sec. 3. [APPROPRIATION.]

*\$20,000 is appropriated from the nongame wildlife account to the commissioner of natural resources to remove all elk from the agricultural areas of the state."*

Amend the title as follows:

Page 1, line 6, delete "allowing"

Page 1, delete line 7

Page 1, line 8, delete "damaging crops" and insert "appropriating

money”

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

Mr. Willet from the Committee on Finance, to which was re-referred

S.F. No. 1176: A bill for an act relating to children; requiring a new job classification in child protection; requiring continuing education; providing for a joint training program; requiring a report to the legislature; proposing coding for new law in Minnesota Statutes, chapter 626.

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

Page 3, after line 9, insert:

“Sec. 2. [APPROPRIATIONS.]

*Subdivision 1. [COMMISSIONER OF HUMAN SERVICES.] \$53,400 is appropriated from the general fund to the commissioner of human services for purposes of section 1, to be available for the fiscal year ending June 30, 1986.*

*Subd. 2. [COMMISSIONER OF PUBLIC SAFETY.] \$156,000 is appropriated from the general fund to the commissioner of public safety for purposes of section 1, \$78,000 to be available for the fiscal year ending June 30, 1986, and \$78,000 to be available for the fiscal year ending June 30, 1987.”*

Page 3, line 10, delete “2” and insert “3”

Amend the title as follows:

Page 1, line 5, after the second semicolon, insert “appropriating money;”

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

Mr. Willet from the Committee on Finance, to which was re-referred

S.F. No. 1130: A bill for an act relating to occupations and professions; changing the composition of the board of medical examiners and the method of appointing board members; authorizing the release of certain information by the board of medical examiners; requiring the board of medical examiners to adopt a written statement describing its procedures, and publish disciplinary actions; revising the standards for licensing and disciplining physicians; establishing reporting requirements for health professionals and granting immunity to those complying with reporting requirements; establishing special requirements for health-related licensing boards; appropriating money; recodifying certain provisions in Minnesota Statutes, chapter 147; amending Minnesota Statutes 1984, sections 147.01, subdivisions 1, 2, and 4; 147.02, subdivision 1, and by adding subdivisions; 147.021; 147.03; 147.073; 147.074; 147.09; 147.10; 176.011, subdivision 9; 214.07, subdivision 1; and 214.10, by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapter 147; repealing Minnesota Statutes 1984, sections 147.02, subdivision 2; 147.06; 147.07; 147.072; 147.101; 147.11; 147.12; 147.13; 147.16; 147.17; 147.18; 147.19; 147.20; and 147.23.

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

Page 1, line 31, reinstate the stricken "11" and delete "12"

Page 2, line 6, delete "board member" and insert "of the public members" and after "represent" insert "a" and after "health" insert "and"

Page 2, line 7, delete "and" and delete "organizations" and insert "organization"

Page 3, line 10, after "medicine" insert "or public member"

Page 3, line 11, delete "membership" and insert "or public member position"

Page 3, line 18, delete "shall" and insert "may"

Page 3, line 30, strike everything after "privileged"

Page 3, lines 31 and 32, strike the old language and delete the new language

Page 3, line 33, strike "4" and before the period, insert "and any disciplinary hearing shall be closed to the public"

Page 4, delete lines 4 to 11

Page 4, line 12, delete "(d)" and insert "(b)"

Page 4, line 15, delete "(e)" and insert "(c)" and delete "may" and insert "shall"

Page 5, line 31, before "federation" insert "national board of medical examiners or the"

Page 7, line 10, delete "12" and insert "17"

Page 9, line 23, delete everything after the first "to" and insert "employ, supervise, or delegate functions to a qualified person who may or may not be required to obtain a license or registration to provide health"

Page 9, delete line 24

Page 9, line 25, delete everything before "services"

Page 9, line 27, before the period, insert "or delegated authority"

Page 10, line 34, before the period, insert "except when otherwise required or permitted by law"

Page 11, line 4, delete "and failure, at the" and insert "to comply with a patient's request made pursuant to section 144.335 or to furnish a medical record or report required by law."

Page 11, delete lines 5 to 7

Page 11, line 15, after "therapeutic" insert "or experimental or investigative" and before the period, insert "authorized by a state or federal agency"

Page 11, line 20, delete "9" and insert "14"

Page 11, line 22, delete "11" and insert "16"



Page 12, line 23, after "a" insert "serious"

Page 13, line 32, delete "(d)" and insert "(l)"

Page 15, line 6, delete the first "l" and insert "4"

Page 15, line 36, after "FOREIGN" insert "MEDICAL"

Page 16, line 25, after the period, insert "*This requirement shall not apply to an applicant who is admitted as a permanent immigrant to the United States as a person of exceptional ability in the sciences pursuant to rules of the United States department of labor and who has completed one year of the graduate, clinical medical training required by this paragraph.*"

Page 16, line 36, after "under" insert "section 4," and after "(b)" insert a comma and delete "(d)" and insert "subdivision 1, paragraph (b), of this section"

Page 17, line 32, after "hospital" insert "or physician"

Page 18, line 13, before "prevent" insert "apply to, control,"

Page 18, line 23, after "licensed" insert "or registered"

Page 18, after line 34, insert:

"(5) A student who is in continuing training and performing the duties of an intern or resident or engaged in postgraduate work considered by the board to be the equivalent of an internship or residency in any hospital or institution approved for training by the board."

Page 18, line 35, delete "(5)" and insert "(6)"

Page 19, line 11, delete "(6)" and insert "(7)"

Page 19, line 12, delete "(7)" and insert "(8)"

Page 19, delete lines 18 and 19 and insert:

"(9) Any person licensed by a health related licensing board, as defined in section 214.01, subdivision 2, or registered by the commissioner of health pursuant to section 214.13,"

Page 19, line 20, delete "or certified"

Page 19, line 23, delete "(9)" and insert "(10)"

Page 20, line 35, delete "A" and insert "Any" and delete everything after "person"

Page 20, line 36, delete ", or an officer or"

Page 21, delete line 1

Page 21, line 2, delete "abetting a violation,"

Page 21, line 4, after "person" insert "not exempted under section 147.09"

Page 21, line 14, delete "including acupuncture,"

Page 21, line 15, delete the last comma

Page 21, line 16, before "defect" insert "or" and delete ", or abnormal"

*physical or mental condition"*

Page 21, line 24, delete "'doctor,'"

Page 21, line 31, delete "1 to 18" and insert "147.01 to 147.33"

Page 22, line 8, after the period, insert "No report shall be required of a physician voluntarily limiting his or her practice at a hospital provided that the physician notifies all hospitals at which he or she has privileges of the voluntary limitation and the reasons for it."

Page 22, lines 13 and 14, delete "1 to 18" and insert "147.01 to 147.33"

Page 22, line 16, before the period, insert "or shall direct the complainant to the board of medical examiners"

Page 22, line 18, after "board" insert "personal knowledge of" and delete "constituting" and insert "which he or she reasonably believes constitutes"

Page 22, line 19, delete "1 to 18" and insert "147.01 to 147.33"

Page 22, line 20, delete everything after "physician," and insert "including any conduct indicating that the physician may be medically incompetent, or may have engaged in unprofessional conduct or may be medically or physically unable to engage safely in the practice of medicine. No report shall be required if the information was obtained in the course of a physician-patient relationship if the patient is another physician and the treating physician successfully counsels the other physician to limit or withdraw from practice to the extent required by the impairment."

Page 22, delete lines 21 to 25

Page 23, line 14, delete "section 147.10" and insert "sections 147.01 to 147.33"

Page 24, line 9, delete "5" and insert "147.021"

Page 24, lines 15, 18, and 34, delete "1 to 18" and insert "147.01 to 147.33"

Page 24, line 26, after the period, insert "The board shall pay for copies requested."

Page 25, line 21, delete "1 to 18" and insert "147.01 to 147.33"

Page 25, line 22, delete "administrative" and insert "administrative"

Page 31, after line 18, insert:

"Sec. 21. Minnesota Statutes 1984, section 214.10, subdivision 1, is amended to read:

Subdivision 1. [RECEIPT OF COMPLAINT.] The executive secretary of a board, a board member or any other person who performs services for the board who receives a complaint or other communication, whether oral or written, which complaint or communication alleges or implies a violation of a statute or rule which the board is empowered to enforce, shall promptly forward the substance of the communication on a form prepared by the attorney general to the designee of the attorney general responsible for providing legal services to the board. Before proceeding further with the commu-

nication, the designee of the attorney general may require the complaining party to state his complaint in writing on a form prepared by the attorney general. Complaints which relate to matters within the jurisdiction of another governmental agency shall be forwarded to that agency by the executive secretary. An officer of that agency shall advise the executive secretary of the disposition of that complaint. A complaint received by another agency which relates to a statute or rule which a licensing board is empowered to enforce shall be forwarded to the executive secretary of the board to be processed in accordance with this section. *No complaint alleging a matter within the jurisdiction of the board shall be dismissed by a board unless at least two board members have reviewed the matter.*"

Page 31, delete lines 26 to 36

Page 32, delete lines 1 and 2

Page 32, line 3, delete "(b)" and insert "(a)"

Page 32, lines 3, 14, and 23, delete "*designee of the attorney general*" and insert "*executive secretary or consulted board member*"

Page 32, delete lines 6 to 12 and insert "*communication shall be forwarded to the designee of the attorney general for an investigation of the facts alleged in the communication.*"

Page 32, line 13, delete "*investigation.*" and delete "*a full*" and insert "*an*"

Page 32, line 17, delete "*or administrative law judge*"

Page 32, lines 19 and 30, before "*client*" insert "*patient or*"

Page 32, line 27, delete "(c)" and insert "(b)"

Page 32, line 32, delete everything after the semicolon

Page 32, delete line 33

Page 32, line 34, delete everything before "*the*"

Page 33, line 4, delete "(d)" and insert "(c)" and after "*a*" insert "*direct*"

Page 33, line 8, delete "(e)" and insert "(d)"

Page 33, line 16, delete "*is*" and insert "*are*"

Page 33, line 17, after the period, insert "*Each health-related licensing board shall have access to any data of the department of human services relating to a person subject to the jurisdiction of the licensing board. The data shall have the same classification under sections 13.01 to 13.88, the Minnesota government data practices act, in the hands of the agency receiving the data as it had in the hands of the department of human services.*"

Page 33, line 18, delete "(f)" and insert "(e)"

Page 33, after line 33, insert:

"Sec. 24. [REPORT TO LEGISLATURE.]

*By December 15, 1985, each health, related licensing board, as defined in Minnesota Statutes, section 214.01, subdivision 2, shall submit a report to*

*the legislature in the manner required by Minnesota Statutes, section 3.195. Each report shall describe (1) the method used by the board for acknowledging complaints that have been filed with that board; (2) the length of time taken to provide complaint forms to persons who requested them and the length of time taken to acknowledge receipt of a complaint; (3) the method used to inform complainants of the status of a pending complaint; and (4) the information given to the complainant upon final disposition of a complaint."*

Page 34, after line 9, insert:

*"In Minnesota Statutes 1986 and later editions of the statutes, the revisor shall substitute the term "director" for "secretary" where "secretary" refers to the executive secretary of a health-related licensing board as defined in section 214.01, subdivision 2."*

Renumber the sections in sequence

Amend the title as follows:

Page 1, line 20, after "214.10," insert "subdivision 1, and"

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

Mr. Willet from the Committee on Finance, to which was re-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:

Amend the report from the Committee on Governmental Operations, adopted by the Senate April 23, 1985, as follows:

Page 4, line 30, after "Faribault" insert "police"

Page 5, line 21, delete ";; PAYMENT"

Page 6, line 14, delete everything after the headnote

Page 6, line 15, delete everything before "as"

Page 6, line 16, after "payment," insert "the Minneapolis employees retirement fund shall"

Page 6, line 17, delete "any" and insert "the"

Page 6, after line 23, insert:

*"Subd. 5. [PAYMENTS.] The amounts necessary to make the lump sum payments for persons receiving annuities from the Minneapolis employees retirement fund are appropriated pursuant to section 8. The amounts necessary to make the lump sum payments for the covered retirement funds listed in subdivision 3, clauses (1) to (5), are appropriated from the Minnesota post-retirement investment fund."*

*The calculations of the lump sum payments are to be determined by the retirement funds. Upon certification from the retirement funds to the department of finance of the necessary amounts, the commissioner of finance*

*shall pay to the post-retirement investment fund the amount apportioned in section 8. Any deficit created in the post-retirement investment fund shall be amortized out of investment earnings pursuant to Minnesota Statutes, section 11A.18, subdivision 9, clause (2) (c)."*

Page 6, line 26, delete "\$18,399,665" and insert "\$11,200,000"

Page 6, line 27, delete "this" and after "section" insert "7"

Page 6, line 28, delete everything after "apportioned"

Page 6, line 29, delete "payment"

Page 6, delete lines 31 to 36 and insert:

"Minneapolis employees retirement fund	\$1,658,055	\$1,586,620
Minnesota post retirement investment fund	\$4,103,674	\$3,851,651"

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

Mr. Willet from the Committee on Finance, to which was re-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. 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 medicine" 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. 3. [ANIMAL.] "Animal" does not mean poultry or birds of any kind.

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

Subd. 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 cer-

*tificate 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. 2. 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, 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. 3. 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. 4. 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 college of veterinary medicine other than an accredited or approved college of veterinary medicine as defined in section 1, subdivision 2, 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. 5. [REPEALER.]

*Minnesota Statutes 1984, section 156.09, is repealed."*

Delete the title and insert:

*"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."*

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

Mr. Willet from the Committee on Finance, to which was referred

S.F. No. 1246: A bill for an act relating to economic security; clarifying the community action program financial assistance requirements; amending Minnesota Statutes 1984, section 268.52, subdivisions 1 and 2.

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



Page 1, line 15, after "with" insert "*the omnibus reconciliation act of 1981,*"

Page 1, line 16, after "*amended*" insert "*in 1984, Public Law Number 98-558*"

Page 1, line 19, strike "FUNDS" and insert "MONEY" and before "State" insert "(a)" and strike "funds" and insert "money"

Page 1, lines 21 and 22, delete "funds" and insert "money"

Page 1, line 23, delete "*grant funds*" and insert "*grants*"

Page 1, line 25, strike "(a) or"

Page 2, line 1, delete "and" and after "(b)" insert "and (c)"

Page 2, line 3, strike "clause" and insert "paragraph" and reinstate the stricken "(d)" and delete "(c)"

Page 2, line 8, strike "(a)"

Page 2, line 11, before "The" insert "(b)" and delete "funds" and insert "money"

Page 2, line 13, delete "*shall be*" and insert "*are*" and after "*follows*" insert a colon and delete "*of*" and insert "*with low income*"

Page 2, line 16, strike "(b)"

Page 2, line 28, before "All" insert "(c)" and delete "funds" and insert "money"

Page 2, line 29, delete "funds" and insert "money"

Page 2, line 30, delete "shall" and insert "must"

Page 2, line 34, strike "(c)" and insert "(d)" and strike "funds" and insert "money"

Page 3, line 4, delete "shall" and insert "must"

Page 3, lines 5 and 7, delete "funds" and insert "money"

Page 3, line 6, delete "shall" and insert "must"

Page 3, after line 10, insert:

"Sec. 3. Minnesota Statutes 1984, section 268.53, subdivision 2, is amended to read:

Subd. 2. [ADMINISTERING BOARD.] Each community action agency shall administer its community action programs through a community action board consisting of 15 to 51 members.

(a) One-third of the members of the board shall be elected public officials, currently holding office, or their representatives.

(b) At least one-third of the members shall be persons chosen in accordance with democratic selection procedures adequate to assure that they are representative of the poor in the area served.

(c) The other members shall be officials or members of business, industry, labor, religious, welfare, education, or other major groups and interests in

the community. Each member of the board selected to represent a specific geographic area within a community must reside in the area represented.

~~(d) No person selected under clause (b) or (c) shall serve for more than five consecutive years or more than a total of ten years.~~

~~(e) The public community action agency shall have an administering board which meets the requirements of this subdivision.~~

~~(f) (e) The statewide migrant seasonal farmworker organization known as the Minnesota migrant council and Indian reservations carrying out community action programs are exempt from the board composition requirements of this subdivision.~~

#### Sec. 4. [EFFECTIVE DATE.]

*This act is effective the day following final enactment."*

Amend the title as follows:

Page 1, line 5, delete "section" and insert "sections" and after "2" insert "; and 268.53, subdivision 2"

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

Mr. Willet from the Committee on Finance, to which was re-referred

S.F. No. 1004: A bill for an act relating to occupations and professions; requiring the commissioner of corrections to establish a program to prevent sexual exploitation by psychotherapists; extending the sexual exploitation task force; appropriating money; amending Laws 1984, chapter 631, section 1, subdivision 4; proposing coding for new law in Minnesota Statutes, chapter 241.

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 241.021, is amended by adding a subdivision to read:

*Subd. 6. [BACKGROUND STUDIES.] The commissioner of corrections is authorized to do background studies on personnel employed by any facility serving children or youth that is licensed under this section. A clerk of any court, the bureau of criminal apprehension, a prosecuting attorney, a county sheriff, or a chief of a local police department, shall assist in these studies by providing to the commissioner, or the commissioner's representative, all criminal conviction data available from local, state, and national criminal history record repositories, including the criminal justice data communications network, pertaining to the following individuals: applicants, operators, all persons living in the household, and all staff of any facility subject to background studies under this subdivision."*

Page 2, after line 24, insert:

"Sec. 4. [ADVISORY TASK FORCE ON THE REGULATION OF PSYCHOTHERAPISTS.]

*Subdivision 1. [TASK FORCE ESTABLISHED.] An advisory task force is created to study and report to the commissioner of health and the legislature on the need for licensing or regulation of currently unregulated occupations, professions, and individuals engaging in psychotherapy. The task force consists of no more than 16 members, including a psychologist appointed by the board of psychology, a nurse appointed by the board of nursing, a psychiatrist appointed by the board of medical examiners, and the following members appointed by the commissioner of health:*

*(1) a social worker recommended by the Coalition for the Legal Regulation of Social Workers;*

*(2) a chemical dependency counselor recommended by the Institute for Chemical Dependency Professionals in Minnesota;*

*(3) a marriage and family therapist recommended by the Upper Midwest Association for Marriage and Family Therapy;*

*(4) a counselor recommended by the Minnesota Association for Counseling and Development;*

*(5) two public members knowledgeable about psychotherapy or the regulation of occupations and professions; and*

*(6) up to seven additional members who have knowledge and expertise in the procedures and issues related to the regulation of occupations and professions.*

*The task force shall report its findings and recommendations to the commissioner of health and the legislature by January 1, 1986. In addition to addressing the criteria for regulation specified in section 214.001, subdivision 2, and other matters the task force considers appropriate, the report must address (1) the need to create consequences for psychotherapists who exploit, mistreat, or otherwise harm a client, including consequences that are directly related to their practice of psychotherapy including prohibitions of the right to practice; and (2) the need for a system of redress with the state, for victims of misconduct by psychotherapists, that is directly related to the psychotherapist's practice. Nothing in this section affects or delays the status of the application of any group for regulation under section 214.13. The task force expires when its responsibilities under this section are completed, but no later than June 30, 1987."*

Page 2, line 25, delete "[APPROPRIATION.]" and insert "[APPROPRIATIONS.]"

Page 2, line 26, delete "\$\_\_\_\_\_" and insert "Subdivision 1. [COMMISSIONER OF CORRECTIONS.] \$50,000"

Page 2, after line 27, insert:

*"Subd. 2. [COMMISSIONER OF HEALTH.] \$30,000 is appropriated from the general fund to the commissioner of health for the study of the regulation of psychotherapists, to be available until June 30, 1987.*

Sec. 6. [REPEALER.]

*Section 2 is repealed on July 1, 1987."*

Renumber the sections in sequence

Amend the title as follows:

Page 1, line 5, after the semicolon, insert "establishing a legislative study commission on the regulation of psychotherapists;"

Page 1, line 6, after "amending" insert "Minnesota Statutes 1984, section 241.021, by adding a subdivision; and"

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

## SECOND READING OF SENATE BILLS

S.F. Nos. 977, 866, 723, 339, 719, 1176, 1130, 1246 and 1004 were read the second time.

## SECOND READING OF HOUSE BILLS

H.F. Nos. 98 and 533 were read the second time.

## INTRODUCTION AND FIRST READING OF SENATE BILLS

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

Mr. Chmielewski introduced—

S.F. No. 1529: A bill for an act relating to contracts; providing for payments from contractors to subcontractors; amending Minnesota Statutes 1984, sections 337.01, subdivision 1; 337.03; 337.04; 337.05, subdivision 1; and 337.06; proposing coding for new law in Minnesota Statutes, chapter 337.

Referred to the Committee on Judiciary.

Mr. Willet, for the Committee on Finance, introduced—

S.F. No. 1530: A bill for an act relating to the organization and operation of state government; appropriating money for the general legislative, judicial, and administrative expenses of state government with certain conditions; providing for the transfer of certain money in the state treasury; authorizing land acquisition; fixing and limiting fees; creating, modifying, transferring, and abolishing agencies and functions; amending Minnesota Statutes 1984, sections 2.722, subdivision 1, and by adding a subdivision; 3.099, subdivision 1; 3.303, by adding a subdivision; 3.351, subdivision 3; 3.736, subdivision 3; 3C.12, subdivision 7; 10A.32, subdivision 3; 11A.07, by adding a subdivision; 11A.20, subdivision 1; 14.07, subdivisions 1 and 2; 14.08; 14.26; 14.32; 14.40; 14.47, subdivision 8; 14.48; 14.51; 14.55; 15A.081, subdivisions 1 and 7; 15A.082, subdivisions 2 and 3; 16A.055, subdivision 1; 16A.123, subdivision 3; 16A.127, subdivisions 1, 3, 5, and by adding a subdivision; 16A.128; 16A.1281; 16A.15, subdivision 1; 16A.275; 16A.40; 16A.42, subdivision 2; 16A.45, subdivision 2; 16A.47; 16A.58; 16A.641, subdivision 10, and by adding a subdivision; 16A.672, subdivisions 1, 2, and 3; 16B.09, by adding a subdivision; 16B.21, subdivision 1; 16B.22; 16B.24, subdivision 5; 16B.29; 16B.36, subdivision 1; 16B.42,

subdivision 4; 16B.48, subdivision 2; 16B.54, subdivision 2; 16B.70; 40A.01, subdivision 1; 40A.02, subdivisions 3, 11, and 15; 40A.03, subdivision 2; 40A.04; 40A.05, subdivisions 1 and 2; 40A.06; 40A.07, subdivision 2; 40A.13, subdivision 1; 41A.01; 41A.02, subdivisions 5, 7, 8, 11, and by adding subdivisions; 41A.03, subdivisions 1, 3, and by adding a subdivision; 41A.04, subdivisions 1, 3, and 4; 41A.05, subdivisions 1, 2, 3, and by adding subdivisions; 41A.06, subdivisions 1 and 5; 43A.04, subdivision 3; 43A.08, subdivision 1; 43A.10, subdivision 8; 43A.15, by adding a subdivision; 43A.19, subdivision 1; 43A.30, subdivision 4, and by adding a subdivision; 46.07, subdivision 2, and by adding a subdivision; 47.015, subdivision 1; 47.0151, subdivision 3; 47.0152; 48.13; 49.05, by adding subdivisions; 52.02, subdivision 3; 52.24, subdivisions 1 and 2; 53.04, by adding a subdivision; 53.10; 55.095; 69.031, subdivision 1; 84.86, subdivision 1; 85.05; 85.22, subdivision 2a; 85.43; 85A.02, by adding a subdivision; 85A.03, subdivisions 4 and 5; 85A.04, subdivision 1; 86.33; 105.44, subdivision 10; 115A.904; 115A.908; subdivision 2; 115A.914, subdivision 1; 116.07, subdivision 4d; 116.12, subdivision 1; 116C.69, subdivision 3; 116C.71, by adding a subdivision; 116J.035, by adding a subdivision; 116J.36, subdivision 6; 116J.76; 116L.03, subdivision 7; 116L.04, by adding a subdivision; 116M.03, subdivision 17; 116M.04, subdivisions 8a and 9; 116M.05, subdivision 8; 116M.06, subdivisions 2 and 5; 116M.07, subdivisions 2, 4, 8, 9, 11, and 13; 116M.08, subdivisions 11, 12, 14, and 15; 116M.10, subdivision 8; 116M.11; 116M.12, subdivisions 3 and 4; 129A.02, subdivision 2; 136.63, by adding a subdivision; 136C.06; 176.102, subdivision 6, and by adding a subdivision; 176.103, subdivision 2; 176.241, subdivisions 3a and 3b; 176.271, subdivision 1; 176.275; 176.305, subdivision 1; 176.321, subdivision 1; 176.421, subdivisions 4 and 5; 176.442; 178.03, by adding a subdivision; 180.03, subdivisions 2, 3, and 4; 180.10; 183.545, by adding a subdivision; 196.051, by adding a subdivision; 204D.11, subdivision 1; 214.06, subdivision 1; 238.02, subdivision 4; 238.05; 238.06; 238.08; subdivisions 2 and 3; 238.09; 238.11, subdivision 1; 238.12, subdivision 3; 238.13; 238.14; 238.15; 238.16, subdivision 1; 238.17, subdivisions 1, 5, 6, and 8; 245.87; 248.07; 248.08; 248.085, by adding a subdivision; 256.736; 256C.24; 256C.25, subdivision 1; 256C.26; 256D.02, subdivision 13; 256D.03, subdivision 2; 256D.09, subdivision 3, and by adding a subdivision; 256D.111, subdivision 2; 268.05, subdivision 2; 268.31; 268.32; 268.33; 268.34; 268.36; 268.672, subdivision 6; 268.676, subdivision 1; 268.686; 270.75, by adding a subdivision; 270A.07, subdivision 1; 290.50, subdivision 6; 296.421, subdivision 4, and by adding a subdivision; 297.13, subdivision 1; 298.2211, by adding a subdivision; 326.52; 331A.02, subdivision 1; 334.021; 336.9-302; 352.01, subdivision 2B; 353.34, by adding a subdivision; 361.03, subdivision 5; 361.27; 363.01, subdivision 24, and by adding subdivisions; 363.05, subdivision 2; 363.06, subdivision 8; 363.061, by adding a subdivision; 363.071, subdivision 2; 363.091; 363.116; 400.04, subdivision 1; 403.11, subdivision 1; 462A.03, subdivisions 13 and 14; 462A.05, subdivisions 11, 12, 14a, 15a, 23, and by adding subdivisions; 462A.07, subdivisions 14 and 15; 462A.08, subdivision 3; 462A.20, subdivision 3; 462A.21, subdivision 6, and by adding a subdivision; 462A.22, subdivision 1; 462C.09, by adding a subdivision; 471.65; 472.03, subdivision 9; 472.11, subdivisions 3 and 9; 472.125; 472.13; 473.153, subdivision 2; 473.606, subdivision 1; 473H.10, subdivision 3; 477A.014, by adding a subdivision; 487.01, subdivision 5; and 611.216, subdivision 1, and by adding a subdivision; Laws 1984, chapter 644, section 81, subdivision 2; Laws 1985, chapter 4, section 6, subdivision 3; proposing coding for new law in Minnesota Statutes, chapters 3; 3C; 5;

16A; 40A; 41A; 43A; 47; 68A; 70A; 84; 85; 88; 97; 104; 105; 116C; 116J; 116M; 139; 175; 179; 198; 256C; 268; 270; 273; 325G; 363; 465; 466; 473; and 480; proposing coding for new law as Minnesota Statutes, chapters 267 and 361A; repealing Minnesota Statutes 1984, sections 7.01; 7.013; 7.02; 7.03; 7.04; 7.05; 7.13; 7.14; 7.15; 7.16; 7.17; 7.18; 10.18; 10.19; 10.20; 10.21; 10.22; 10.23; 16A.42, subdivision 3; 16C.01; 40.19, subdivisions 3, 4, 10, 12, 14, and 15; 40A.13, subdivisions 2, 3, 4, and 5; 43A.19, subdivision 2; 46.15; 47.20, subdivisions 11 and 12; 48.19; 48.57; 48.58; 48.87; 69.031, subdivision 2; 84.088; 85A.04, subdivision 3; 124.471; 129A.02, subdivision 4; 245.84, subdivision 2; 256.736, subdivisions 1 and 2; 256D.02, subdivision 8a; 256D.111, subdivision 1a; 256D.112; 268.011; 268.012; 268.013; 268.12, subdivisions 1 and 1a; 268.683, subdivision 2; 268.684; 268.80; 268.81; 268.82; 268.83; 296.10; 349.212, subdivision 3, as amended; 360.301; 360.302; 360.304; 360.306; 360.388; and 360.389; Laws 1982, chapter 489, section 11; and Laws 1984, chapter 502, article 10, section 12, and article 13, section 15.

Under the rules of the Senate, laid over one day.

### MEMBERS EXCUSED

Mr. Johnson, D.J. was excused from the Session of today from 2:00 to 5:15 p.m. Mr. Stumpf was excused from the Session of today from 2:45 to 5:45 p.m. Mr. Belanger was excused from the Session of today from 6:00 to 8:20 p.m. Ms. Reichgott was excused from the Session of today from 5:30 to 6:00 p.m. Mr. Berg was excused from the Session of today at 10:00 p.m.

The following member was excused from today's Session for a brief period of time: Mr. Lessard.

### ADJOURNMENT

Mr. Moe, R.D. moved that the Senate do now adjourn until 10:00 a.m., Friday, May 10, 1985. The motion prevailed.

Patrick E. Flahaven, Secretary of the Senate