

EIGHTY-THIRD DAY

St. Paul, Minnesota, Tuesday, March 11, 1986

The Senate met at 10:30 a.m. and was called to order by the President.

CALL OF THE SENATE

Mr. Pehler imposed a call of the Senate. The Sergeant at Arms was instructed to bring in the absent members.

Prayer was offered by the Chaplain, Rev. Michael Tegeder.

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

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

The President declared a quorum present.

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

MESSAGES FROM THE HOUSE

Mr. President:

I have the honor to announce the adoption by the House of the following Senate Concurrent Resolution, AS AMENDED by the House.

Senate Concurrent Resolution No. 19: A Senate concurrent resolution designating the "Red Ribbon" to commemorate Minnesota citizens who are still missing in action or are being held against their will in Asian countries.

Senate Concurrent Resolution No. 19 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned March 10, 1986

Mr. Moe, R.D. moved that Senate Concurrent Resolution No. 19 be laid on the table. The motion prevailed.

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 referred

S.F. No. 2222: A bill for an act relating to education; vocational; specifying use of appropriation for firefighter training programs in AVTT's; amending Laws 1985, First Special Session chapter 11, section 4, subdivision 3.

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. 1990: A bill for an act relating to traffic regulations; requiring increased insurance coverage upon conviction of certain alcohol- and drug-related crimes; authorizing the commissioner to cancel certain reinstated licenses if insurance is not maintained; amending Minnesota Statutes 1984, section 169.121, by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapter 171.

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

Mr. Johnson, D.J. from the Committee on Taxes and Tax Laws, to which was referred

S.F. No. 2196: A bill for an act relating to the city of Sartell; authorizing the establishment of a redevelopment district.

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 273.73, subdivision 10, is amended to read:

Subd. 10. [REDEVELOPMENT DISTRICT.] (a) "Redevelopment district" means a type of tax increment financing district consisting of a project, or portions of a project, within which the authority finds by resolution that one of the following conditions, reasonably distributed throughout the district, exists:

(1) 70 percent of the parcels in the district are occupied by buildings, streets, utilities or other improvements and more than 50 percent of the buildings, not including outbuildings, are structurally substandard to a degree requiring substantial renovation or clearance; or

(2) 70 percent of the parcels in the district are occupied by buildings, streets, utilities or other improvements and 20 percent of the buildings are

structurally substandard and an additional 30 percent of the buildings are found to require substantial renovation or clearance in order to remove such existing conditions as: inadequate street layout, incompatible uses or land use relationships, overcrowding of buildings on the land, excessive dwelling unit density; obsolete buildings not suitable for improvement or conversion, or other identified hazards to the health, safety and general well being of the community; or

(3) Less than 70 percent of the parcels in the district are occupied by buildings, streets, utilities or other improvements, but due to unusual terrain or soil deficiencies requiring substantial filling, grading or other physical preparation for use at least 80 percent of the total acreage of such land has a fair market value upon inclusion in the redevelopment district which, when added to the estimated cost of preparing that land for development, excluding costs directly related to roads as defined in section 160.01 and local improvements as described in section 429.021, subdivision 1, clauses 1 to 7; 11 and 12, and section 430.01, if any, exceeds its anticipated fair market value after completion of said preparation; provided that no parcel shall be included within a redevelopment district pursuant to this paragraph (3) unless the authority has concluded an agreement or agreements for the development of at least 50 percent of the acreage having the unusual soil or terrain deficiencies, which agreement provides recourse for the authority should the development not be completed; or

(4) The property consists of underutilized air rights existing over a public street, highway or right-of-way; or

(5) The property consists of vacant, unused, underused, inappropriately used or infrequently used railyards, rail storage facilities or excessive or vacated railroad rights-of-way; or

(6) The district consists of an existing or proposed industrial park no greater in size than 250 acres, which contains a sewage lagoon contaminated with polychlorinated biphenyls.

(b) For purposes of this subdivision, "structurally substandard" shall mean containing defects in structural elements or a combination of deficiencies in essential utilities and facilities, light and ventilation, fire protection including adequate egress, layout and condition of interior partitions, or similar factors, which defects or deficiencies are of sufficient total significance to justify substantial renovation or clearance. "Parcel" shall mean a tract or plat of land established prior to the certification of the district as a single unit for purposes of assessment."

Amend the title as follows:

Page 1, delete lines 2 and 3 and insert "relating to establishing a new qualification for designation as a redevelopment district for tax increment financing purposes; amending Minnesota Statutes 1984, section 273.73, subdivision 10."

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

Mr. Johnson, D.J. from the Committee on Taxes and Tax Laws, to which was re-referred

S.F. No. 2205: A bill for an act relating to Washington county; permitting the county to finance water systems on behalf of cities and towns in the county by the issuance of county general obligation bonds.

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

Mr. Johnson, D.J. from the Committee on Taxes and Tax Laws, to which was re-referred

S.F. No. 1515: A bill for an act relating to Ramsey county; authorizing the issuance of bonds for the construction of library buildings and an annual levy for debt retirement; providing for an appointed county abstract clerk; proposing coding for new law in Minnesota Statutes, chapter 383A; repealing Minnesota Statutes 1984, section 383A.38.

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

Mr. Johnson, D.J. from the Committee on Taxes and Tax Laws, to which was re-referred

S.F. No. 2127: A bill for an act relating to the city of Cologne; exempting certain general obligation bonds and tax levies from debt and levy limitations.

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

Mr. Johnson, D.J. from the Committee on Taxes and Tax Laws, to which was re-referred

S.F. No. 2105: A bill for an act relating to local government; permitting the establishment of special service districts in the cities of Cambridge and Lindstrom; providing taxing and other powers to the cities of Cambridge and Lindstrom.

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

Mr. Johnson, D.J. from the Committee on Taxes and Tax Laws, to which was referred

H.F. No. 2329: A bill for an act relating to Dakota county; authorizing the issuance of bonds for the construction of library buildings and an annual levy for debt retirement.

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

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

S.F. No. 2081: A bill for an act relating to partnerships; revising the Uniform Limited Partnership Act; stating duties and powers of limited partners and partnerships; amending Minnesota Statutes 1984, sections 322A.01; 322A.02; 322A.05; 322A.11; 322A.12; 322A.14; 322A.15; 322A.18;

322A.24; 322A.26; 322A.27; 322A.31; 322A.32; 322A.39; 322A.40; 322A.41; 322A.45; 322A.47; 322A.49; 322A.52; 322A.58; 322A.63; and 322A.70.

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

Page 18, after line 12, insert:

“Sec. 23. Minnesota Statutes 1984, section 322A.65, is amended to read:
322A.65 [WINDING UP.]

(a) Except as provided in the partnership agreement, the general partners who have not wrongfully dissolved a limited partnership or, if none, the limited partners, may wind up the limited partnership's affairs; but the district court may wind up the limited partnership's affairs upon application of any partner, his legal representative, or assignee.

(b) *Where a limited partnership has by its own terms terminated, or it has been dissolved or otherwise terminated, the general partners or any general partner last acting in that capacity has authority, without court approval, to execute necessary or appropriate instruments of conveyance of real estate and mortgage satisfactions.*”

Renumber the sections in sequence

Amend the title as follows:

Page 1, line 8, after “322A.63;” insert “322A.65;”

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

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

H.F. No. 1772: A bill for an act relating to courts; increasing fees to be collected; clarifying existing fee statutes; increasing the penalty assessment imposed on persons convicted of crimes; clarifying the purposes for which it may be used; amending Minnesota Statutes 1984, section 176.451, subdivision 3; 487.31, subdivisions 1 and 4; 487.33; 514.70; 525.031; and 525.033; Minnesota Statutes 1985 Supplement, sections 357.021, subdivision 2; and 609.101.

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

Page 2, line 4, delete “\$25” and insert “\$30”

Page 3, lines 11 to 22, reinstate the stricken language

Page 4, lines 8 and 9, reinstate the stricken language

Page 5, after line 5, insert:

“Sec. 7. Minnesota Statutes 1984, section 501.125, subdivision 1, is amended to read:

Subdivision 1. [GENERAL PROPERTIES AND INVESTMENTS.] (a) In acquiring, investing, reinvesting, exchanging and managing property, a

trustee is authorized to acquire every kind of property, real, personal or mixed, and every kind of investment, specifically including, but not by way of limitation, bonds, debentures and other individual or corporate obligations, mutual funds, and corporate stocks, ~~which an ordinarily prudent person of discretion and intelligence, who is a trustee of the property of others, would acquire as such trustee.~~ A trustee, in determining the prudence of a particular investment, shall consider the role that the proposed investment or investment course of action plays within the overall portfolio of assets. In applying the total asset management approach, a trustee shall exercise the judgment and care under the circumstances then prevailing, which persons of prudence, discretion, and intelligence exercise in the management of their own affairs, not in regard to speculation but in regard to the permanent disposition of their funds. If the trustee has special skills or expertise or if the trustee holds itself out as having special skills or expertise, the trustee is under a duty to use those skills or expertise.

(b) Except as may be provided to the contrary in the instrument, the following are among the factors that should be considered by a trustee in applying the total asset management approach:

- (1) the probable income as well as the probable safety of the capital;
- (2) marketability of investments;
- (3) length of the term of investments;
- (4) duration of the trust;
- (5) liquidity needs;
- (6) requirements of the beneficiary or beneficiaries;
- (7) other assets of the beneficiary or beneficiaries, including earning capacity; and
- (8) effect of investments in increasing or diminishing liability for taxes.

Sec. 8. Minnesota Statutes 1984, section 501.125, is amended by adding a subdivision to read:

Subd. 1a. [INVESTMENT IN CERTAIN GROWTH ENTERPRISES.] Subject to the standards of subdivision 1, a trustee is authorized to invest in new, unproven, untried, or other enterprises with a potential for significant growth whether producing a current return, either by investing directly or by investing as a limited partner or otherwise in one or more commingled funds which in turn invest primarily in those enterprises. The aggregate amount of investments held by a trustee under the authority of this subdivision valued at cost may not exceed ten percent of the net fair market value of the trust corpus, including investments made under the authority of this section valued at fair market value, immediately after the investment is made. Any investment that would have been authorized by this subdivision if it had been in effect at the time the investment was made is authorized by this subdivision.

Sec. 9. Minnesota Statutes 1985 Supplement, section 501.125, subdivision 6, is amended to read:

Subd. 6. [INVESTMENT COMPANIES.] (a) In the absence of an express

prohibition in the trust instrument, whenever the instrument directs, requires, authorizes, or permits investment in obligations of the United States or obligations, the payment of the principal of and interest on which is unconditionally guaranteed by the United States; the trustee may invest in and hold those obligations either directly or in the form of securities of, or other interests in, an acquire and retain securities of any open-end or closed-end management type investment company (1) or investment trust registered under the Federal Investment Company Act of 1940, whose shares are registered under the Federal Securities Act of 1933; and (2) whose investments are limited to these obligations and repurchase agreements fully collateralized by these obligations, if the repurchase agreements are entered into only with those primary reporting dealers that report to the Federal Reserve Bank of New York and with the 100 largest United States commercial banks.

(b) Nothing in this subdivision shall be construed to alter the degree of care and judgment required of trustees by subdivision 1.

Sec. 10. Minnesota Statutes 1984, section 501.66, is amended by adding a subdivision to read:

Subd. 6a. The trustee may invest and reinvest trust assets in new, unproven, untried, or other enterprises with a potential for significant growth whether producing a current return, either by investing directly or by investing as a limited partner or otherwise in one or more commingled funds which in turn invest primarily in those enterprises; provided that the aggregate amount of investments held by a trustee under the authority of this subdivision valued at cost may not exceed ten percent of the net fair market value of the trust corpus, including investments made under the authority of this section valued at fair market value, immediately after the investment is made.

Sec. 11. Minnesota Statutes 1984, section 501.66, subdivision 28, is amended to read:

Subd. 28. The trustee may employ attorneys, accountants, investment advisors, agents or other persons, even if they are associated with the trustee, to advise or assist the trustee in the performance of his duties; to act without independent investigation upon their recommendations; and instead of acting personally, to employ one or more agents to perform any act of administration, whether or not discretionary; except that:

(1) the trustee may not delegate all of the trustee's duties; and

(2) the employment does not relieve the trustee of liability for the discretionary acts of a person, which if done by the trustee, would result in liability to the trustee, or of the duty to select and retain a person with reasonable care."

Page 5, line 36, reinstate the stricken language

Page 6, lines 1 and 2, reinstate the stricken language

Page 6, lines 2 to 6, delete the new language

Page 7, after line 3, insert:

"Sec. 16. [SCOPE OF APPLICATION.]

(a) Nothing in sections 7 to 11 invalidates:

(1) any instrument or property relationship that is executed and irrevocable as of the effective date of this act; or

(2) any action commenced prior to the effective date of this act, provided that the instrument, property relationship, or action otherwise complies with the provisions of Minnesota Statutes, chapter 501, in effect when the action was commenced.

(b) Sections 7 to 11 apply to all instruments, property relationships, and proceedings existing on or after the effective date of this act."

Renumber the sections in sequence

Amend the title as follows:

Page 1, line 6, after the semicolon, insert "providing for the standard of care of trustees; authorizing certain investments of trust property; providing for powers of trustees;"

Page 1, line 6, delete "section" and insert "sections"

Page 1, line 8, after "487.33" insert ", subdivisions 1 and 2"

Page 1, line 8, after the first semicolon, insert "501.125, subdivision 1, and by adding a subdivision; 501.66, subdivision 28, and by adding a subdivision;"

Page 1, line 10, after the semicolon, insert "501.125, subdivision 6;"

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

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

S.F. No. 2098: A bill for an act relating to public safety; creating the crimes of aggravated unlicensed operation of a motor vehicle in the first, second, third, and fourth degrees; providing for the seizure, impoundment, and forfeiture of a motor vehicle operated by a driver whose license or operating privilege is suspended or revoked; prescribing penalties for persons who operate unregistered motor vehicles on streets or highways; requiring mandatory imprisonment and other sanctions for persons convicted of driving while under the influence of alcohol or a controlled substance for a third time; amending Minnesota Statutes 1984, sections 168.09, subdivision 1; 168.10, subdivision 4; 169.121, by adding a subdivision; and 171.241; proposing coding for new law in Minnesota Statutes, chapter 171; repealing Minnesota Statutes 1984, section 171.24; Minnesota Statutes 1985 Supplement, section 169.129.

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 168.041, is amended to read:

168.041 [IMPOUNDING REGISTRATION PLATES AND CERTIFICATES.]

Subdivision 1. When any person is convicted of driving a motor vehicle after the suspension or revocation of the ~~drivers~~ driver's license or driving

privileges of such person, the court shall require the registration plates and registration certificates of any motor vehicle involved in such violation owned by such person or registered in his name to be surrendered to the court. Upon surrender thereof the court shall issue a receipt therefor.

If the violator is not the owner of such motor vehicle, the court shall require the registration plates and the registration certificate of any motor vehicle used by the violator, with the permission of the owner who had knowledge of the fact that the violator's drivers license had been revoked or suspended prior to the commission of the offense, to be surrendered to the court.

Subd. 2. If any person is convicted of violating any law or municipal ordinance, except parking laws or ordinances, regulating the operation of motor vehicles on the streets or highways, and the record of ~~such~~ the person so convicted shows a previous conviction for driving after suspension or revocation of his driver's license or driving privileges, the court may direct the commissioner of public safety to suspend the driver's license of ~~such~~ the person for not exceeding one year. The court may also require the registration plates and registration certificates of any motor vehicles owned by the violator or registered in his name to be surrendered to the court.

Subd. 3. *Except as otherwise provided in subdivision 3a*, if a person is convicted of any offense which makes mandatory the revocation of the ~~drivers~~ driver's license of such person, or is convicted of driving a motor vehicle without having a valid driver's license in force, the court may require the registration plates and registration certificates of any motor vehicle owned by such person or any motor vehicles registered in his name to be surrendered to the court.

Subd. 3a. If a person's driver's license or driving privileges are revoked pursuant to a third violation of section 169.121 or 169.123 within five years, or a fourth or subsequent violation of section 169.121 or 169.123 within ten years, the court shall require the registration plates and registration certificates of any motor vehicle involved in the violation and owned by or registered in the name of the violator, including vehicles registered jointly in the name of the violator and the violator's spouse, to be surrendered to the court. An impoundment order must be issued under this subdivision when the person appears in court on any criminal charge or civil driver's license matter arising out of the incident resulting in the most recent license revocation. If no criminal charge or civil license matter is initiated in court, the attorney general may initiate a registration plate and certificate impoundment proceeding, requesting an impoundment order under this subdivision. This proceeding shall be brought in municipal or county court in the jurisdiction where the violation of section 169.121 or 169.123 occurred.

Subd. 4. *Except as provided in subdivision 6 or subdivision 7, the court shall retain custody of the surrendered plates and certificates. Any registration plates surrendered to the court pursuant to this section must be destroyed by the court. Any registration certificates surrendered to the court must be forwarded to the registrar of motor vehicles by the court. Except as provided in subdivision 5a, 6, or 7, no new registration plates may be issued to the person, violator, or owner until such time as the ~~drivers~~ driver's license of the person, violator, or owner has been reissued or reinstated.*

Subd. 5. At the time of ordering the surrender of the registration plates and registration certificates of a *the person*, violator, or owner, the court shall notify the registrar of motor vehicles of that fact. ~~Except as provided in subdivision 6 or subdivision 7, no new or duplicate registration plates or new registration certificates shall be issued to such violator or owner until his plates and certificates are returned to him by the court. The registration plates must be destroyed by the court. When the registration plates are destroyed, the court shall notify the registrar of motor vehicles of that fact.~~

Subd. 5a. *If the driver's license revocation which is the basis for a registration plate and certificate impoundment order is rescinded, upon application to the registrar of motor vehicles, the person whose registration plates and certificates have been impounded must receive new plates and the certificate for the impounded vehicle at no cost. The application must include a copy of the order rescinding the driver's license revocation.*

Subd. 6. Any such person, violator, or owner may apply to the registrar of motor vehicles court which ordered the surrender of registration plates and certificates for new registration plates which shall bear a special series number which may be readily identified by traffic law enforcement officers. A fee of \$5 shall accompany the application. ~~The registrar of motor vehicles shall forthwith notify the court of such application. The court may return the registration certificate of such violator or owner to the registrar of motor vehicles, together with its consent to the issuance of such registration plates to such violator or owner. Thereupon the registrar of motor vehicles shall issue such new registration plates. The court may authorize the issuance of special plates if (1) a member of the person's, violator's, or owner's household has a valid driver's license, or (2) the person, violator, or owner has a limited license issued pursuant to section 171.30. If the court authorizes the issuance of special plates, it shall notify the registrar of motor vehicles and the registrar must issue the special plates upon payment of a \$100 fee for each vehicle for which special plates are requested. Until the drivers driver's license of such person, violator, or owner is reinstated or reissued, any new registration plates issued to him or to an owner whose plates have been impounded ordered surrendered shall bear a special series number.~~

Subd. 7. ~~If an the owner wishes to sell a motor vehicle during the time its registration plates and registration certificate are impounded have been ordered surrendered or during the time its registration plates bear a special series number, he may apply to the court which impounded ordered the surrender of such plates and certificate, for consent to transfer title to the motor vehicle. If the court is satisfied that the proposed sale is in good faith and for a valid consideration, that the owner will thereby be deprived of the custody and control of the motor vehicle, and that the sale is not for the purpose of circumventing the provisions of this section, it may certify its consent to the registrar of motor vehicles and return the impounded registration plates and certificates. If during The registrar shall then transfer the registration certificate to the new owner upon proper application and shall issue new registration plates to the new owner. After the time the registration plates and certificate of registration are impounded have been surrendered to the court pursuant to this section, if the title to said motor vehicle is transferred by the foreclosure of a chattel mortgage, the cancellation of a conditional sales contract, a sale upon execution, or by decree or order of a court of competent jurisdiction, the court shall order the license plates and registration certificate surrendered to the new owner and notify the registrar of motor vehicles of such action. The registrar of motor vehicles shall then transfer the registra-~~

tion plates and registration certificates to the new owner and shall issue new registration plates to the new owner.

Subd. 8. Nothing contained in this section is intended to change or modify any provision of this chapter, with respect to the taxation of motor vehicles or the time within which the taxes thereon ~~shall~~ must be paid.

Subd. 9. Any person who fails to surrender any impounded registration plates or registration certificates to the court upon demand pursuant to this section or who operates any motor vehicle on a street or highway at a time when a court has ordered the surrender of its registration plates and registration certificate is guilty of a misdemeanor.

Sec. 2. Minnesota Statutes 1985 Supplement, section 169.121, subdivision 1, is amended to read:

Subdivision 1. [CRIME.] It is a misdemeanor for any person to drive, operate or be in physical control of any motor vehicle within this state or upon the ice of any boundary water of this state:

(a) when the person is under the influence of alcohol;

(b) when the person is under the influence of a controlled substance, as defined in section 152.01, subdivision 4;

(c) when the person is under the influence of a combination of any two or more of the elements named in clauses (a) and, (b), and (f);

(d) when the person's alcohol concentration is 0.10 or more; or

(e) when the person's alcohol concentration as measured within two hours of the time of driving is 0.10 or more; or

(f) when the person is under the influence of any substance that affects the nervous system, brain, or muscles of the person so as to substantially impair the person's ability to drive or operate the motor vehicle in the manner that an ordinary, prudent, and cautious person using reasonable care would drive or operate under like conditions.

Sec. 3. Minnesota Statutes 1984, section 169.121, subdivision 2, is amended to read:

Subd. 2. [EVIDENCE.] Upon the trial of any prosecution arising out of acts alleged to have been committed by any person arrested for driving, operating, or being in physical control of a motor vehicle in violation of subdivision 1, the court may admit evidence of the amount of alcohol or a controlled or other substance in the person's blood, breath, or urine as shown by an analysis of those items.

For the purposes of this subdivision:

(a) evidence that there was at the time an alcohol concentration of 0.05 or less is prima facie evidence that the person was not under the influence of alcohol;

(b) evidence that there was at the time an alcohol concentration of more than 0.05 and less than 0.10 is relevant evidence in indicating whether or not the person was under the influence of alcohol.

Evidence of the refusal to take a test is admissible into evidence in a pros-

ecution under this section or an ordinance in conformity with it.

If proven by a preponderance of the evidence, it shall be an affirmative defense to a violation of subdivision 1, clause (e), that the defendant consumed a sufficient quantity of alcohol after the time of actual driving, operating, or physical control of a motor vehicle and before the administration of the evidentiary test to cause the defendant's alcohol concentration to exceed 0.10. Provided, that this evidence may not be admitted unless notice is given to the prosecution prior to the omnibus or pretrial hearing in the matter.

The foregoing provisions do not limit the introduction of any other competent evidence bearing upon the question whether or not the person ~~was under the influence of alcohol or a controlled substance~~ violated this section, including tests obtained more than two hours after the alleged violation and results obtained from partial tests on an infrared breath-testing instrument. A result from a partial test is the measurement obtained by analyzing one adequate breath sample, as defined in section 169.123, subdivision 2b, paragraph (b).

Sec. 4. Minnesota Statutes 1984, section 169.121, is amended by adding a subdivision to read:

Subd. 3a. [HABITUAL OFFENDER PENALTIES.] A person convicted of violating this section or an ordinance in conformity with it within ten years of two or more prior convictions under this section, section 169.129, an ordinance in conformity with either of them, or a statute or ordinance from another state in conformity with either of them, must be sentenced, subject to the maximum sentence authorized by subdivision 3, to compulsory attendance at a chemical dependency program approved by the commissioner of public safety, and either or both of the following:

(1) to a minimum term of imprisonment of not less than 30 days; or

(2) to payment of a fine of not less than \$1,000.

Sec. 5. Minnesota Statutes 1984, section 169.121, subdivision 6, is amended to read:

Subd. 6. [PRELIMINARY SCREENING TEST.] When a peace officer has reason to believe from the manner in which a person is driving, operating, controlling, or acting upon departure from a motor vehicle, or has driven, operated, or controlled a motor vehicle, that the driver may be violating or has violated subdivision 1, he may require the driver to provide a sample of his breath for a preliminary screening test using a device approved by the commissioner of public safety for this purpose. The results of this preliminary screening test shall be used for the purpose of deciding whether an arrest should be made and whether to require the tests authorized in section 169.123, but shall not be used in any court action except to prove that a test was properly required of a person pursuant to section 169.123, subdivision 2. Following the screening test additional tests may be required of the driver pursuant to the provisions of section 169.123.

The driver who refuses to furnish a sample of his breath is subject to the provisions of section 169.123 unless, in compliance with section 169.123, he submits to a blood, breath or urine test to determine the presence of alcohol or a controlled or other substance in violation of subdivision 1.

Sec. 6. Minnesota Statutes 1985 Supplement, section 169.123, subdivision 2, is amended to read:

Subd. 2. [IMPLIED CONSENT; CONDITIONS; ELECTION AS TO TYPE OF TEST.] (a) Any person who drives, operates, or is in physical control of a motor vehicle within this state or upon the ice of any boundary water of this state consents, subject to the provisions of this section and section 169.121, to a chemical test of his blood, breath, or urine for the purpose of determining the presence of alcohol or a controlled *or other* substance *in violation of section 169.121, subdivision 1*. The test shall be administered at the direction of a peace officer. The test may be required of a person when an officer has probable cause to believe the person was driving, operating, or in physical control of a motor vehicle in violation of section 169.121 and one of the following conditions exist: (1) the person has been lawfully placed under arrest for violation of section 169.121, or an ordinance in conformity with it; or (2) the person has been involved in a motor vehicle accident or collision resulting in property damage, personal injury, or death; or (3) the person has refused to take the screening test provided for by section 169.121, subdivision 6; or (4) the screening test was administered and recorded an alcohol concentration of 0.10 or more.

(b) At the time a test is requested, the person shall be informed:

(1) that Minnesota law requires the person to take a test to determine if the person is under the influence of alcohol or a controlled *or other* substance;

(2) that if testing is refused, the person's right to drive will be revoked for a minimum period of one year or, if the person is under the age of 18 years, for a period of one year or until he or she reaches the age of 18 years, whichever is greater;

(3) that if a test is taken and the results indicate that the person is under the influence of alcohol or a controlled *or other* substance, the person will be subject to criminal penalties and the person's right to drive may be revoked for a minimum period of 90 days or, if the person is under the age of 18 years, for a period of six months or until he or she reaches the age of 18 years, whichever is greater;

(4) that after submitting to testing, the person has the right to consult with an attorney and to have additional tests made by a person of his own choosing; and

(5) that if he refuses to take a test, the refusal will be offered into evidence against him at trial.

(c) The peace officer who requires a test pursuant to this subdivision may direct whether the test shall be of blood, breath, or urine. However, if the officer directs that the test shall be of a person's blood or urine, the person may choose whether the test shall be of his blood or urine.

Sec. 7. Minnesota Statutes 1984, section 169.123, subdivision 2a, is amended to read:

Subd. 2a. [REQUIREMENT OF URINE TEST.] Notwithstanding subdivision 2, if there are reasonable and probable grounds to believe there is impairment by a controlled *or other* substance which is not subject to testing by a blood or breath test, a urine test may be required even after a blood or

breath test has been administered.

Sec. 8. Minnesota Statutes 1984, section 169.123, subdivision 3, is amended to read:

Subd. 3. [MANNER OF MAKING TEST; ADDITIONAL TESTS.] Only a physician, medical technician, physician's trained mobile intensive care paramedic, registered nurse, medical technologist or laboratory assistant acting at the request of a peace officer may withdraw blood for the purpose of determining the presence of alcohol or *a controlled or other substance in violation of section 169.121, subdivision 1*. This limitation does not apply to the taking of a breath or urine sample. The person tested has the right to have a person of his own choosing administer a chemical test or tests in addition to any administered at the direction of a peace officer; provided, that the additional test sample on behalf of the person is obtained at the place where the person is in custody, after the test administered at the direction of a peace officer, and at no expense to the state. The failure or inability to obtain an additional test or tests by a person shall not preclude the admission in evidence of the test taken at the direction of a peace officer unless the additional test was prevented or denied by the peace officer. The physician, medical technician, physician's trained mobile intensive care paramedic, medical technologist, laboratory assistant or registered nurse drawing blood at the request of a peace officer for the purpose of determining alcohol concentration shall in no manner be liable in any civil or criminal action except for negligence in drawing the blood. The person administering a breath test shall be fully trained in the administration of breath tests pursuant to training given by the commissioner of public safety.

Sec. 9. Minnesota Statutes 1984, section 169.123, subdivision 4, is amended to read:

Subd. 4. [REFUSAL; REVOCATION OF LICENSE.] If a person refuses to permit a test, none shall be given, but the peace officer shall report the refusal to the commissioner of public safety and the authority having responsibility for prosecution of misdemeanor offenses for the jurisdiction in which the acts occurred. A refusal to submit to an alcohol concentration test does not constitute a violation of section 609.50, unless the refusal was accompanied by force or violence or the threat of force or violence. If a person submits to a test and the test results indicate an alcohol concentration of 0.10 or more, the results of the test shall be reported to the commissioner of public safety and to the authority having responsibility for prosecution of misdemeanor offenses for the jurisdiction in which the acts occurred.

Upon certification by the peace officer that there existed probable cause to believe the person had been driving, operating, or in physical control of a motor vehicle while under the influence of alcohol or a controlled *or other* substance and that the person refused to submit to a test, the commissioner of public safety shall revoke the person's license or permit to drive, or his nonresident operating privilege, for a period of one year. If the person refusing to submit to testing is under the age of 18 years, the commissioner shall revoke the person's license or permit to drive, or his or her nonresident operating privilege, for a period of one year or until the person reaches the age of 18 years, whichever is greater. Upon certification by the peace officer that there existed probable cause to believe the person had been driving,

operating or in physical control of a motor vehicle while under the influence of alcohol or a controlled *or other* substance and that the person submitted to a test and the test results indicate an alcohol concentration of 0.10 or more, the commissioner of public safety shall revoke the person's license or permit to drive, or his nonresident operating privilege, for a period of 90 days or, if the person is under the age of 18 years, for a period of six months or until he or she reaches the age of 18 years, whichever is greater.

If the person is a resident without a license or permit to operate a motor vehicle in this state, the commissioner of public safety shall deny to the person the issuance of a license or permit for the same period after the date of the alleged violation as provided herein for revocation, subject to review as hereinafter provided.

Sec. 10. Minnesota Statutes 1984, section 169.123, subdivision 6, is amended to read:

Subd. 6. [HEARING.] A hearing under this section shall be before a municipal or county judge, in any county in the judicial district where the alleged offense occurred. The hearing shall be to the court and may be conducted at the same time and in the same manner as hearings upon pre-trial motions in the criminal prosecution under section 169.121, if any. The hearing shall be recorded. The commissioner of public safety shall appear and be represented by the attorney general or through the prosecuting authority for the jurisdiction involved.

The hearing shall be held at the earliest practicable date, and in any event no later than 60 days following the filing of the petition for review. The judicial district administrator shall establish procedures to ensure efficient compliance with the provisions of this subdivision. To accomplish this, the administrator may, whenever possible, consolidate and transfer review hearings among the county courts within the judicial district.

The scope of the hearing shall be limited to the issues of:

(1) whether the peace officer had probable cause to believe the person was driving, operating, or in physical control of a motor vehicle while under the influence of alcohol or a controlled *or other* substance, and whether the person was lawfully placed under arrest for violation of section 169.121, or the person was involved in a motor vehicle accident or collision resulting in property damage, personal injury or death, or the person refused to take a screening test provided for by section 169.121, subdivision 6, or the screening test was administered and recorded an alcohol concentration of 0.10 or more; and

(2) whether at the time of the request for the test the peace officer informed the person of his rights and the consequences of taking or refusing the test as required by subdivision 2; and

(3) either (a) whether the person refused to permit the test, or (b) whether a test was taken and the test results indicated an alcohol concentration of 0.10 or more at the time of testing, and whether the testing method used was valid and reliable, and whether the test results were accurately evaluated.

It shall be an affirmative defense for the petitioner to prove that, at the time of the refusal, his refusal to permit the test was based upon reasonable

grounds.

Certified or otherwise authenticated copies of laboratory or medical personnel reports, records, documents, licenses and certificates shall be admissible as substantive evidence.

The court shall order either that the revocation be rescinded or sustained and forward the order to the commissioner of public safety. The court shall file its order within 14 days following the hearing. If the revocation is sustained, the court shall also forward the person's driver's license or permit to the commissioner of public safety for his further action if the license or permit is not already in the commissioner's possession.

Sec. 11. Minnesota Statutes 1984, section 361.12, subdivision 1, is amended to read:

Subdivision 1. No person shall operate or be in actual physical control of any watercraft while under the influence of alcohol; as provided in section 169.121, subdivision 4 or a controlled or other substance, as defined in section 152.01, subdivision 4 as provided in section 169.121, subdivision 1. No owner or other person having charge or control of any watercraft shall knowingly authorize or permit any person who is under the influence of alcohol, or a controlled or other substance to operate such watercraft.

Sec. 12. [EFFECTIVE DATE.]

This act is effective August 1, 1986, and applies to crimes committed on or after that date.

Delete the title and insert:

"A bill for an act relating to public safety; providing for the mandatory surrender of registration plates and certificates on motor vehicles operated by repeat DWI offenders; clarifying the evidentiary use of partial alcohol concentration breath tests; imposing mandatory minimum penalties on habitual DWI offenders; expanding the crime of driving a motor vehicle while under the influence of alcohol or certain substances; amending Minnesota Statutes 1984, sections 168.041; 169.121, subdivisions 2 and 6, and by adding a subdivision; 169.123, subdivisions 2a, 3, 4, and 6; and 361.12, subdivision 1; Minnesota Statutes 1985 Supplement, sections 169.121, subdivision 1; and 169.123, subdivision 2."

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

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

S.F. No. 2122: A bill for an act relating to corporations; regulating control share acquisitions; providing for solicitations of proxies and meetings of shareholders; amending Minnesota Statutes 1985 Supplement, sections 302A.449, subdivision 7; and 302A.671, subdivision 3.

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

Page 2, after line 26, insert:

"Sec. 3. Minnesota Statutes 1984, section 302A.751, is amended to read:

302A.751 [INVOLUNTARY DISSOLUTION JUDICIAL INTERVENTION; EQUITABLE REMEDIES OR DISSOLUTION.]

Subdivision 1. [WHEN PERMITTED.] A court may grant any equitable relief it deems just and reasonable in the circumstances or may dissolve a corporation and liquidate its assets and business:

- (a) In a supervised voluntary dissolution pursuant to section 302A.741;
- (b) In an action by a shareholder when it is established that:

(1) the directors or the persons having the authority otherwise vested in the board are deadlocked in the management of the corporate affairs and the shareholders are unable to break the deadlock;

(2) the directors or those in control of the corporation have acted fraudulently, illegally, or in a manner unfairly prejudicial toward one or more shareholders in their capacities as shareholders, directors, or officers, or as employees of a closely held corporation;

(3) the shareholders of the corporation are so divided in voting power that, for a period that includes the time when two consecutive regular meetings were held, they have failed to elect successors to directors whose terms have expired or would have expired upon the election and qualification of their successors;

(4) the corporate assets are being misapplied or wasted; or

(5) the period of duration as provided in the articles has expired and has not been extended as provided in section 302A.801;

- (c) In an action by a creditor when:

(1) the claim of the creditor has been reduced to judgment and an execution thereon has been returned unsatisfied; or

(2) the corporation has admitted in writing that the claim of the creditor is due and owing and it is established that the corporation is unable to pay its debts in the ordinary course of business; or

(d) In an action by the attorney general to dissolve the corporation in accordance with section 302A.757 when it is established that a decree of dissolution is appropriate.

Subd. 2. [BUY-OUT ON MOTION.] In an action under subdivision 1, clause (b), involving a closely held corporation at the time the action is commenced and in which one or more of the circumstances described in that clause is established, the court may, upon motion of a corporation or a shareholder or beneficial owner of shares of the corporation, order the sale by a plaintiff or a defendant of all shares of the corporation held by the plaintiff or defendant to either the corporation or the moving shareholders, whichever is specified in the motion, if the court determines in its discretion that an order would be fair and equitable to all parties under all of the circumstances of the case.

The purchase price of any shares so sold shall be the fair value of the shares as of the date of the commencement of the action or as of another date found equitable by the court, provided that, if the shares in question are then subject to sale and purchase pursuant to the bylaws of the corporation, a

shareholder control agreement, the terms of the shares, or otherwise, the court shall order the sale for the price and on the terms set forth in them, unless the court determines that the price or terms are unreasonable under all the circumstances of the case.

Within five days after the entry of the order, the corporation shall provide each selling shareholder or beneficial owner with the information it is required to provide under section 302A.473, subdivision 5, paragraph (a).

If the parties are unable to agree on fair value within 40 days of entry of the order, the court shall determine the fair value of the shares under the provisions of section 302A.473, subdivision 7, and may allow interest or costs as provided in section 302A.473, subdivisions 1 and 8.

The purchase price shall be paid in one or more installments as agreed on by the parties, or, if no agreement can be reached within 40 days of entry of the order, as ordered by the court. Upon entry of an order for the sale of shares under this subdivision and provided that the corporation or the moving shareholders post a bond in adequate amount with sufficient sureties or otherwise satisfy the court that the full purchase price of the shares, plus such additional costs, expenses, and fees as may be awarded, will be paid when due and payable, the selling shareholders shall no longer have any rights or status as shareholders, officers, or directors, except the right to receive the fair value of their shares plus such other amounts as might be awarded.

Subd. 3. [CONDITION OF CORPORATION.] In determining whether to order equitable relief, dissolution, or a buy-out, the court shall take into consideration the financial condition of the corporation but shall not refuse to order equitable relief, dissolution, or a buy-out solely on the ground that the corporation has accumulated or current operating profits.

Subd. 3a. [CONSIDERATIONS IN GRANTING RELIEF INVOLVING CLOSELY HELD CORPORATIONS.] In determining whether to order equitable relief, dissolution, or a buy-out, the court shall take into consideration the duty which all shareholders in a closely held corporation owe one another to act in an honest, fair, and reasonable manner in the operation of the corporation and the reasonable expectations of the shareholders as they exist at the inception and develop during the course of the shareholders' relationship with the corporation and with each other.

Subd. 3b. [DISSOLUTION AS REMEDY.] *In deciding whether to order dissolution, the court shall consider whether lesser relief suggested by one or more parties, such as any form of equitable relief, a buy-out, or a partial liquidation, would be adequate to permanently relieve the circumstances established under subdivision 1, clause (b) or (c). Lesser relief may be ordered in any case where it would be appropriate under all the facts and circumstances of the case.*

Subd. 4. [EXPENSES.] If the court finds that a party to a proceeding brought under this section has acted arbitrarily, vexatiously, or otherwise not in good faith, it may in its discretion award reasonable expenses, including attorneys' fees and disbursements, to any of the other parties.

Subd. 5. [VENUE; PARTIES.] Proceedings under this section shall be brought in a court within the county in which the registered office of the corporation is located. It is not necessary to make shareholders parties to the

action or proceeding unless relief is sought against them personally."

Amend the title as follows:

Page 1, line 4, after "amending" insert "Minnesota Statutes 1984, section 302A.751;"

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

H.F. No. 2023 for comparison with companion Senate File, reports the following House File was found identical and recommends the House File be given its second reading and substituted for its companion Senate File as follows:

GENERAL ORDERS		CONSENT CALENDAR		CALENDAR	
H.F. No.	S.F. No.	H.F. No.	S.F. No.	H.F. No.	S.F. No.
2023	2032				

and that the above Senate File be indefinitely postponed.

Pursuant to Rule 49, this report was prepared and submitted by the Secretary of the Senate on behalf of the Committee on Rules and Administration. Report adopted.

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

H.F. No. 2236 for comparison with companion Senate File, reports the following House File was found identical and recommends the House File be given its second reading and substituted for its companion Senate File as follows:

GENERAL ORDERS		CONSENT CALENDAR		CALENDAR	
H.F. No.	S.F. No.	H.F. No.	S.F. No.	H.F. No.	S.F. No.
2236	2052				

and that the above Senate File be indefinitely postponed.

Pursuant to Rule 49, this report was prepared and submitted by the Secretary of the Senate on behalf of the Committee on Rules and Administration. Report adopted.

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

H.F. No. 2407 for comparison with companion Senate File, reports the following House File was found not identical with companion Senate File as follows:

GENERAL ORDERS		CONSENT CALENDAR		CALENDAR	
H.F. No.	S.F. No.	H.F. No.	S.F. No.	H.F. No.	S.F. No.
2407	2271				

Pursuant to Rule 49, the Committee on Rules and Administration recom-

mends that H.F. No. 2407 be amended as follows:

Delete all the language after the enacting clause of H.F. No. 2407 and insert the language after the enacting clause of S.F. No. 2271, the first engrossment; further, delete the title of H.F. No. 2407 and insert the title of S.F. No. 2271, the first engrossment.

And when so amended H.F. No. 2407 will be identical to S.F. No. 2271, and further recommends that H.F. No. 2407 be given its second reading and substituted for S.F. No. 2271, and that the Senate File be indefinitely postponed.

Pursuant to Rule 49, this report was prepared and submitted by the Secretary of the Senate on behalf of the Committee on Rules and Administration. Amendments adopted. Report adopted.

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

H.F. No. 1911 for comparison with companion Senate File, reports the following House File was found not identical with companion Senate File as follows:

GENERAL ORDERS		CONSENT CALENDAR		CALENDAR	
H.F. No.	S.F. No.	H.F. No.	S.F. No.	H.F. No.	S.F. No.
1911	1948				

Pursuant to Rule 49, the Committee on Rules and Administration recommends that H.F. No. 1911 be amended as follows:

Delete all the language after the enacting clause of H.F. No. 1911 and insert the language after the enacting clause of S.F. No. 1948, the first engrossment; further, delete the title of H.F. No. 1911 and insert the title of S.F. No. 1948, the first engrossment.

And when so amended H.F. No. 1911 will be identical to S.F. No. 1948, and further recommends that H.F. No. 1911 be given its second reading and substituted for S.F. No. 1948, and that the Senate File be indefinitely postponed.

Pursuant to Rule 49, this report was prepared and submitted by the Secretary of the Senate on behalf of the Committee on Rules and Administration. Amendments adopted. Report adopted.

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

H.F. No. 2394 for comparison with companion Senate File, reports the following House File was found not identical with companion Senate File as follows:

GENERAL ORDERS		CONSENT CALENDAR		CALENDAR	
H.F. No.	S.F. No.	H.F. No.	S.F. No.	H.F. No.	S.F. No.
2394	2235				

Pursuant to Rule 49, the Committee on Rules and Administration recommends that H.F. No. 2394 be amended as follows:

Delete all the language after the enacting clause of H.F. No. 2394 and insert the language after the enacting clause of S.F. No. 2235, the first engrossment; further, delete the title of H.F. No. 2394 and insert the title of S.F. No. 2235, the first engrossment.

And when so amended H.F. No. 2394 will be identical to S.F. No. 2235, and further recommends that H.F. No. 2394 be given its second reading and substituted for S.F. No. 2235, and that the Senate File be indefinitely postponed.

Pursuant to Rule 49, this report was prepared and submitted by the Secretary of the Senate on behalf of the Committee on Rules and Administration. Amendments adopted. Report adopted.

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

H.F. No. 1744 for comparison with companion Senate File, reports the following House File was found not identical with companion Senate File as follows:

GENERAL ORDERS		CONSENT CALENDAR		CALENDAR	
H.F. No.	S.F. No.	H.F. No.	S.F. No.	H.F. No.	S.F. No.
1744	1798				

Pursuant to Rule 49, the Committee on Rules and Administration recommends that H.F. No. 1744 be amended as follows:

Delete all the language after the enacting clause of H.F. No. 1744 and insert the language after the enacting clause of S.F. No. 1798, the first engrossment; further, delete the title of H.F. No. 1744 and insert the title of S.F. No. 1798, the first engrossment.

And when so amended H.F. No. 1744 will be identical to S.F. No. 1798, and further recommends that H.F. No. 1744 be given its second reading and substituted for S.F. No. 1798, and that the Senate File be indefinitely postponed.

Pursuant to Rule 49, this report was prepared and submitted by the Secretary of the Senate on behalf of the Committee on Rules and Administration. Amendments adopted. Report adopted.

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

H.F. No. 2185 for comparison with companion Senate File, reports the following House File was found not identical with companion Senate File as follows:

GENERAL ORDERS		CONSENT CALENDAR		CALENDAR	
H.F. No.	S.F. No.	H.F. No.	S.F. No.	H.F. No.	S.F. No.
2185	2137				

Pursuant to Rule 49, the Committee on Rules and Administration recommends that H.F. No. 2185 be amended as follows:

Delete all the language after the enacting clause of H.F. No. 2185 and

insert the language after the enacting clause of S.F. No. 2137, the first engrossment; further, delete the title of H.F. No. 2185 and insert the title of S.F. No. 2137, the first engrossment.

And when so amended H.F. No. 2185 will be identical to S.F. No. 2137, and further recommends that H.F. No. 2185 be given its second reading and substituted for S.F. No. 2137, and that the Senate File be indefinitely postponed.

Pursuant to Rule 49, this report was prepared and submitted by the Secretary of the Senate on behalf of the Committee on Rules and Administration. Amendments adopted. Report adopted.

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

H.F. No. 2324 for comparison with companion Senate File, reports the following House File was found not identical with companion Senate File as follows:

GENERAL ORDERS		CONSENT CALENDAR		CALENDAR	
H.F. No.	S.F. No.	H.F. No.	S.F. No.	H.F. No.	S.F. No.
2324	1970				

Pursuant to Rule 49, the Committee on Rules and Administration recommends that H.F. No. 2324 be amended as follows:

Delete all the language after the enacting clause of H.F. No. 2324 and insert the language after the enacting clause of S.F. No. 1970, the first engrossment; further, delete the title of H.F. No. 2324 and insert the title of S.F. No. 1970, the first engrossment.

And when so amended H.F. No. 2324 will be identical to S.F. No. 1970, and further recommends that H.F. No. 2324 be given its second reading and substituted for S.F. No. 1970, and that the Senate File be indefinitely postponed.

Pursuant to Rule 49, this report was prepared and submitted by the Secretary of the Senate on behalf of the Committee on Rules and Administration. Amendments adopted. Report adopted.

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

H.F. No. 1950 for comparison with companion Senate File, reports the following House File was found not identical with companion Senate File as follows:

GENERAL ORDERS		CONSENT CALENDAR		CALENDAR	
H.F. No.	S.F. No.	H.F. No.	S.F. No.	H.F. No.	S.F. No.
1950	1727				

Pursuant to Rule 49, the Committee on Rules and Administration recommends that H.F. No. 1950 be amended as follows:

Delete all the language after the enacting clause of H.F. No. 1950 and insert the language after the enacting clause of S.F. No. 1727, the first

engrossment; further, delete the title of H.F. No. 1950 and insert the title of S.F. No. 1727, the first engrossment.

And when so amended H.F. No. 1950 will be identical to S.F. No. 1727, and further recommends that H.F. No. 1950 be given its second reading and substituted for S.F. No. 1727, and that the Senate File be indefinitely postponed.

Pursuant to Rule 49, this report was prepared and submitted by the Secretary of the Senate on behalf of the Committee on Rules and Administration. Amendments adopted. Report adopted.

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

H.F. No. 1635 for comparison with companion Senate File, reports the following House File was found not identical with companion Senate File as follows:

GENERAL ORDERS		CONSENT CALENDAR		CALENDAR	
H.F. No.	S.F. No.	H.F. No.	S.F. No.	H.F. No.	S.F. No.
1635	1517				

Pursuant to Rule 49, the Committee on Rules and Administration recommends that H.F. No. 1635 be amended as follows:

Delete all the language after the enacting clause of H.F. No. 1635 and insert the language after the enacting clause of S.F. No. 1517, the first engrossment; further, delete the title of H.F. No. 1635 and insert the title of S.F. No. 1517, the first engrossment.

And when so amended H.F. No. 1635 will be identical to S.F. No. 1517, and further recommends that H.F. No. 1635 be given its second reading and substituted for S.F. No. 1517, and that the Senate File be indefinitely postponed.

Pursuant to Rule 49, this report was prepared and submitted by the Secretary of the Senate on behalf of the Committee on Rules and Administration. Amendments adopted. Report adopted.

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

H.F. No. 2216 for comparison with companion Senate File, reports the following House File was found not identical with companion Senate File as follows:

GENERAL ORDERS		CONSENT CALENDAR		CALENDAR	
H.F. No.	S.F. No.	H.F. No.	S.F. No.	H.F. No.	S.F. No.
2216	2252				

Pursuant to Rule 49, the Committee on Rules and Administration recommends that H.F. No. 2216 be amended as follows:

Delete all the language after the enacting clause of H.F. No. 2216 and insert the language after the enacting clause of S.F. No. 2252, the first engrossment; further, delete the title of H.F. No. 2216 and insert the title of

S.F. No. 2252, the first engrossment.

And when so amended H.F. No. 2216 will be identical to S.F. No. 2252, and further recommends that H.F. No. 2216 be given its second reading and substituted for S.F. No. 2252, and that the Senate File be indefinitely postponed.

Pursuant to Rule 49, this report was prepared and submitted by the Secretary of the Senate on behalf of the Committee on Rules and Administration. Amendments adopted. Report adopted.

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

H.F. No. 1984 for comparison with companion Senate File, reports the following House File was found not identical with companion Senate File as follows:

GENERAL ORDERS		CONSENT CALENDAR		CALENDAR	
H.F. No.	S.F. No.	H.F. No.	S.F. No.	H.F. No.	S.F. No.
1984	1854				

Pursuant to Rule 49, the Committee on Rules and Administration recommends that H.F. No. 1984 be amended as follows:

Delete all the language after the enacting clause of H.F. No. 1984 and insert the language after the enacting clause of S.F. No. 1854, the first engrossment; further, delete the title of H.F. No. 1984 and insert the title of S.F. No. 1854, the first engrossment.

And when so amended H.F. No. 1984 will be identical to S.F. No. 1854, and further recommends that H.F. No. 1984 be given its second reading and substituted for S.F. No. 1854, and that the Senate File be indefinitely postponed.

Pursuant to Rule 49, this report was prepared and submitted by the Secretary of the Senate on behalf of the Committee on Rules and Administration. Amendments adopted. Report adopted.

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

H.F. No. 651 for comparison with companion Senate File, reports the following House File was found not identical with companion Senate File as follows:

GENERAL ORDERS		CONSENT CALENDAR		CALENDAR	
H.F. No.	S.F. No.	H.F. No.	S.F. No.	H.F. No.	S.F. No.
651	1395				

Pursuant to Rule 49, the Committee on Rules and Administration recommends that H.F. No. 651 be amended as follows:

Delete all the language after the enacting clause of H.F. No. 651 and insert the language after the enacting clause of S.F. No. 1395, the first engrossment; further, delete the title of H.F. No. 651 and insert the title of S.F. No. 1395, the first engrossment.

And when so amended H.F. No. 651 will be identical to S.F. No. 1395, and further recommends that H.F. No. 651 be given its second reading and substituted for S.F. No. 1395, and that the Senate File be indefinitely postponed.

Pursuant to Rule 49, this report was prepared and submitted by the Secretary of the Senate on behalf of the Committee on Rules and Administration. Amendments adopted. Report adopted.

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

H.F. No. 2017 for comparison with companion Senate File, reports the following House File was found not identical with companion Senate File as follows:

GENERAL ORDERS		CONSENT CALENDAR		CALENDAR	
H.F. No.	S.F. No.	H.F. No.	S.F. No.	H.F. No.	S.F. No.
2017	1862				

Pursuant to Rule 49, the Committee on Rules and Administration recommends that H.F. No. 2017 be amended as follows:

Delete all the language after the enacting clause of H.F. No. 2017 and insert the language after the enacting clause of S.F. No. 1862, the first engrossment; further, delete the title of H.F. No. 2017 and insert the title of S.F. No. 1862, the first engrossment.

And when so amended H.F. No. 2017 will be identical to S.F. No. 1862, and further recommends that H.F. No. 2017 be given its second reading and substituted for S.F. No. 1862, and that the Senate File be indefinitely postponed.

Pursuant to Rule 49, this report was prepared and submitted by the Secretary of the Senate on behalf of the Committee on Rules and Administration. Amendments adopted. Report adopted.

SECOND READING OF SENATE BILLS

S.F. Nos. 2222, 1990, 2196, 2205, 1515, 2127, 2105, 2081, 2098 and 2122 were read the second time.

SECOND READING OF HOUSE BILLS

H.F. Nos. 2329, 1772, 2023, 2236, 2407, 1911, 2394, 1744, 2185, 2324, 1950, 1635, 2216, 1984, 651 and 2017 were read the second time.

MOTIONS AND RESOLUTIONS

Mr. Frederickson moved that the name of Mr. Bernhagen be added as a co-author to S.F. No. 1621. The motion prevailed.

Mr. Davis moved that the name of Mr. Moe, R.D. be added as a co-author to S.F. No. 2178. The motion prevailed.

Mr. Moe, R.D. moved that Senate Concurrent Resolution No. 19 be taken from the table. The motion prevailed.

Senate Concurrent Resolution No. 19: A Senate concurrent resolution designating the "Red Ribbon" to commemorate Minnesota citizens who are still missing in action or are being held against their will in Asian countries.

Mr. Lessard moved that the Senate concur in the amendments by the House to Senate Concurrent Resolution No. 19 and that the resolution be adopted, as amended. The motion prevailed. So the resolution, as amended, was adopted.

Ms. Berglin moved that S.F. No. 1919 be taken from the table. The motion prevailed.

S.F. No. 1919: A bill for an act relating to mental health; extending the patients' bill of rights to cover people receiving out-patient mental health treatment; defining a minimum grievance procedure for health care facilities; including in the patients' bill of rights the right of access to protection and advocacy services; amending Minnesota Statutes 1984, section 144.651, subdivisions 2, 4, 20, and by adding a subdivision.

CONCURRENCE AND REPASSAGE

Ms. Berglin moved that the Senate concur in the amendments by the House to S.F. No. 1919 and that the bill be placed on its repassage as amended. The motion prevailed.

S.F. No. 1919: A bill for an act relating to mental health; extending the patients' bill of rights to cover people receiving out-patient mental health treatment and minors receiving residential chemical dependency or mental health treatment; defining a minimum grievance procedure for health care facilities; including in the patients' bill of rights the right of access to protection and advocacy services; requiring the reporting of certain information by residential treatment programs for mentally ill, chemically dependent, and emotionally disturbed minors; amending Minnesota Statutes 1984, section 144.651, subdivisions 2, 4, 20, and by adding subdivisions; proposing coding for new law as Minnesota Statutes, chapter 253C.

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

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

The roll was called, and there were yeas 55 and nays 1, as follows:

Those who voted in the affirmative were:

Adkins	Dicklich	Knaak	Moe, D. M.	Reichgott
Anderson	Diessner	Kroening	Moe, R. D.	Renneke
Belanger	Frederickson	Kronebusch	Novak	Samuelson
Benson	Freeman	Laidig	Olson	Schmitz
Berg	Gustafson	Langseth	Pehler	Sicloff
Berglin	Hughes	Lantry	Peterson, C.C.	Solon
Bernhagen	Isackson	Lessard	Peterson, D.C.	Spear
Bertram	Johnson, D.E.	Luther	Peterson, D.L.	Storm
Brataas	Johnson, D.J.	McQuaid	Pogemiller	Stumpf
Chmielewski	Jude	Mehrkens	Purfeerst	Waldorf
DeCramer	Kamrath	Merriam	Ramstad	Wegscheid

Mr. Willet voted in the negative.

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

MOTIONS AND RESOLUTIONS - CONTINUED**SUSPENSION OF RULES**

Remaining on the Order of Business of Motions and Resolutions, Mr. Moe, R.D. moved that the Senate take up the Consent Calendar and that the rules of the Senate be so far suspended as to waive the lie-over requirement. The motion prevailed.

CONSENT CALENDAR

H.F. No. 2317: A bill for an act relating to corporations; providing for the resignation of registered agents of foreign corporations; amending Minnesota Statutes 1984, section 303.10, by adding a subdivision.

Was read the third time and placed on its final passage.

The question was taken on the passage of the bill.

The roll was called, and there were yeas 58 and nays 0, as follows:

Those who voted in the affirmative were:

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

So the bill passed and its title was agreed to.

S.F. No. 2186: A bill for an act relating to the environment; amending Minnesota Statutes 1985 Supplement, section 116.48, subdivision 4.

Was read the third time and placed on its final passage.

The question was taken on the passage of the bill.

The roll was called, and there were yeas 57 and nays 0, as follows:

Those who voted in the affirmative were:

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

So the bill passed and its title was agreed to.

CONFERENCE COMMITTEE EXCUSED

Pursuant to Rule 21, Mr. Langseth moved that the following members be excused for a Conference Committee on H.F. No. 1599 at 11:00 a.m.

Messrs. Langseth, Davis, Berg, DeCramer and Stumpf. The motion prevailed.

MOTIONS AND RESOLUTIONS - CONTINUED

Mr. Stumpf moved that S.F. No. 2268 be withdrawn from the Committee on Veterans and General Legislation and returned to its author. The motion prevailed.

SPECIAL ORDER

S.F. No. 1721: A bill for an act relating to human services; providing for health and dental coverage as child support; regulating withholding for purposes of child support; amending Minnesota Statutes 1984, section 518C.02, subdivision 3; Minnesota Statutes 1985 Supplement, section 518.611, subdivisions 4 and 6; proposing coding for new law in Minnesota Statutes, chapter 518; repealing Minnesota Statutes 1984, section 518.551, subdivision 8.

Ms. Berglin moved to amend S.F. No. 1721 as follows:

Page 3, after line 24, insert:

“Sec. 2. [518.581] [SPOUSAL AND PENSION BENEFIT.]

Subdivision 1. [AWARD OF BENEFIT.] If a current or former public employee's marriage is dissolved, the court may order the employee, the public retirement plan, or both, to pay amounts as part of the division of vested pension rights which the court may make under section 518.58, or as an award of maintenance in the form of a percentage, periodic, or other payments or in the form of a fixed dollar amount. The court may, as part of the order, award a spouse all or part of any survivor benefit. Under no circumstances may the pension fund be required to pay more than the equivalent of one surviving spouse benefit, regardless of the number of spouses or former spouses who may be sharing in a portion of the total benefit.

Subd. 2. [PAYMENT OF FUNDS BY RETIREMENT PLAN.] In any case where the court has ordered that a spouse has an interest in a public pension plan, the court may order the public retirement plan to withhold payment of any refund upon termination of employment or lump sum distribution to the extent of the spouse's interest in the plan.

Subd. 3. [NOTICE TO FORMER SPOUSE.] A former spouse must be notified by a public retirement system of any application by the employee for a refund of retirement benefits if the former spouse has filed with the employee's pension fund:

(1) a copy of the court order determining that the former spouse has an interest in the pension fund;

(2) the name and last known address of the employee; and

(3) the name and address of the former spouse.

Subd. 4. [COMPLIANCE WITH COURT ORDERS.] Except as provided in this section, a public pension plan shall within 30 days comply with any court order, including a withholding order, issued by a court having jurisdiction over dissolution of marriage that is served on the pension plan, provided that the order or other writing states the name, last known address of the payee, and name and address of the former spouse. In the event that the court order or withholding order requires the pension plan to perform an act or pay an amount that is inconsistent with the terms of the pension plan or an election made by the plan participant, the pension plan shall, within 30 days after service of the order, either comply with the order or, in writing, notify the former spouse claiming an interest in the pension plan of the particular reasons why it is unable to comply with the order. After receiving the notice, the former spouse claiming an interest in the pension plan may commence an action against the pension plan, or move to amend the decree of dissolution to bring it into conformity with the terms of the pension plan, or do both. After commencement of an action against the pension plan or service on the pension plan of a notice of motion to amend the decree of dissolution, and pending an order of the court, the pension plan may not distribute to the plan participant or other beneficiary any benefit or portion of a benefit that is claimed by the former spouse.

Subd. 5. [LIMITATION.] Subdivision 1 does not apply unless the order by the court is determined to be a qualified domestic relations order.

Subd. 6. [PUBLIC PENSION PLAN PROCEDURES.] (a) In the case of any domestic relations order received by a public pension plan:

(1) the plan administrator shall promptly notify the current or former public employee and any other alternate payee of the receipt of such order and the plan's procedures for determining the qualified status of domestic relations orders; and

(2) within a reasonable period after receipt of the order, the plan administrator shall determine whether the order is a qualified domestic relations order and notify the current or former public employee and each alternate payee of such determination.

(b) Each public pension plan shall establish reasonable procedures to determine the qualified status of domestic relations orders and to administer distributions under qualified orders.

During any period in which the issue of whether a domestic relations order is a qualified domestic relations order is being determined by the plan administrator, by a court of competent jurisdiction, or otherwise, the plan administrator shall segregate in a separate account in the plan or in an escrow account the amounts that would have been payable to the alternate payee or payees during that period if the order had been determined to be a qualified domestic relations order.

If within 18 months the order or modification of an order is determined to be a qualified domestic relations order, the plan administrator shall pay the segregated amounts plus any interest to the person or persons entitled to them. If, however, within 18 months, it is determined that the order is not a qualified domestic relations order, or the issue as to whether such order is a qualified domestic relations order is not resolved, then the plan administra-

tor shall pay the segregated amounts plus any interest to the person or persons who would have been entitled to those amounts if there had been no order. A determination after the end of the 18-month period that an order is a qualified domestic relations order must be applied prospectively only.

Subd. 7. [DEFINITIONS.] For purposes of this section the following terms have the meanings given in this subdivision.

(a) "Current or former public employee" and "employee" mean an individual who has a vested interest in a public pension plan.

(b) "A public pension plan" is any Minnesota public pension plan or fund which provides pension or retirement coverage for public employees and which provides surviving spouse benefits, including any plan or fund enumerated in sections 356.20, subdivision 2, or 356.30, subdivision 3, any local police or firefighter's relief association, volunteer firefighters relief association, or any retirement or pension plan or fund established, maintained, or supported by the state or any governmental subdivision or public body whose revenues are derived from taxation, fees, assessments, or from other public sources.

(c) The term "surviving spouse benefit" means (1) a benefit a surviving spouse may be eligible for under the laws and bylaws of the public pension plan if the employee dies before retirement, or (2) a benefit selected for or available to a surviving spouse under the laws and bylaws of the public pension plan upon the death of the employee after retirement.

(d) The term "alternate payee" means any spouse, former spouse, child, or other dependent of a current or former public employee who is recognized by a domestic relations order as having a right to receive all or part of the benefits payable under a public pension plan with respect to the current or former public employee.

(e) The term "domestic relations order" means any judgment, decree, or order, including approval of a property settlement agreement, which: (1) relates to the provision of alimony payments or marital property rights to a spouse, former spouse, child, or other dependent of a current or former public employee; and (2) is made under a state domestic relations law.

(f) The term "qualified domestic relations order" means a domestic relations order:

(1) that creates or recognizes the existence of an alternate payee's right to, or assigns to an alternate payee the right to, receive all or a portion of the benefits payable with respect to a current or former public employee under a public pension plan; and

(2) that specifies:

(i) the name and last known mailing address, if any, of the current or former public employee and the name and mailing address of each alternate payee covered by the order;

(ii) the amount or percentage of the current or former public employee's benefit to be paid by the public pension plan to each alternate payee, and the manner in which the amount or percentage is to be determined;

(iii) the number of payments or period to which the order applies;

(iv) each public pension plan to which the order applies;

(v) that the public pension plan is not required to provide any type or form of benefit, or any option, not otherwise provided under the plan;

(vi) that the public pension plan is not required to provide increased benefits (determined on the basis of actuarial value); and

(vii) that payment of benefits to an alternate payee is not required if the benefits are required to be paid to another alternate payee under another order previously determined to be a qualified domestic relations order."

Page 4, after line 29, insert:

"Sec. 5. Minnesota Statutes 1984, section 518.64, is amended by adding a subdivision to read:

Subd. 6. [PROPERTY SETTLEMENTS.] A judgment, decree, or order that constitutes a qualifying domestic relations order under section 414(p) of the Internal Revenue Code of 1954, as amended through December 31, 1985, a spousal pension benefit under section 518.581, or a qualifying order under United States Code, title 5, section 8345(j)(1), as amended through December 31, 1985, or is in substantial compliance with any of those laws, may be amended even though the portion of the judgment, decree, or order to be amended constitutes a property settlement if the amendment:

(1) merely requires a pension plan to pay a benefit previously awarded to a former spouse directly to that former spouse;

(2) makes technical changes in the judgment, decree, or order to qualify it as a qualifying domestic relations order spousal pension benefit, or qualifying order, but makes no substantive change that is adverse to either party as to the amount or duration of an award previously made in the judgment, order, or decree; or

(3) is an income withholding order or an amendment to an income withholding order to include a pension plan as a payor.

Nothing in this section grants the court jurisdiction to amend a property settlement if the amendment would substantively change the judgment, order, or decree in a manner that would be detrimental to either party or to another plan beneficiary with accrued or vested rights in the plan. Nothing in this section authorizes the court to order a plan participant or pension plan to pay a benefit before the time that the benefit would otherwise be payable under the terms of the pension plan, nor to require a plan participant to make an election for a particular time, method, or form of benefit payment.

For purposes of this section, "pension plan" means a public or private retirement plan, including a plan qualifying under section 401 of the Internal Revenue Code of 1954, as amended through December 31, 1985, the civil service retirement and disability fund, and a plan or fund established under the laws of Minnesota that receives contributions from moneys derived from taxation."

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

The motion prevailed. So the amendment was adopted.

S.F. No. 1721 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 53 and nays 2, as follows:

Those who voted in the affirmative were:

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

Messrs. Lessard and Vega voted in the negative.

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

MOTIONS AND RESOLUTIONS - CONTINUED

CONFIRMATION

Mr. Schmitz moved that the reports from the Committee on Local and Urban Government, reported April 22, 1985, pertaining to appointments, be taken from the table. The motion prevailed.

Mr. Schmitz moved that the foregoing reports be now adopted. The motion prevailed.

Mr. Schmitz moved that in accordance with the reports from the Committee on Local and Urban Government, reported April 22, 1985, the Senate, having given its advice, do now consent to and confirm the appointments of:

METROPOLITAN COUNCIL

Mary Elizabeth Anderson, 914 Parkview, St. Paul, Ramsey County, effective January 21, 1985, for a term expiring the first Monday in January, 1989.

Leon F. Cook, 5016 - 13th Ave. S., Minneapolis, Hennepin County, effective October 17, 1984, for a term expiring the first Monday in January, 1985, and effective January 21, 1985, for a term expiring the first Monday in January, 1989.

Dirk deVries, 18600 Woolman Dr., Minnetonka, Hennepin County, effective January 21, 1985, for a term expiring the first Monday in January, 1989.

Mary M. Hauser, 616 Hall Ave., Birchwood, Washington County, effective January 21, 1985, for a term expiring the first Monday in January, 1989.

Mary Martin, 1521 Christensen Ave., West St. Paul, Dakota County, effective January 21, 1985, for a term expiring the first Monday in January, 1989.

Josephine D. Nunn, 401 Elm Creek Rd., Champlin, Hennepin County, effective January 21, 1985, for a term expiring the first Monday in January, 1989.

Dottie Rietow, 1317 Kilmer Ave., St. Louis Park, Hennepin County, effective May 3, 1984, for a term expiring the first Monday in January, 1985, and effective January 21, 1985, for a term expiring the first Monday in January, 1989.

Donald E. Stein, 11721 Evergreen Cir. N.W., Coon Rapids, Anoka County, effective June 13, 1984, for a term expiring the first Monday in January, 1987.

Charles Wiger, 2630 E. Burke Ave., North St. Paul, Ramsey County, effective January 21, 1985, for a term expiring the first Monday in January, 1989.

The motion prevailed. So the appointments were confirmed.

CONFIRMATION

Mr. Pehler moved that the reports from the Committee on Education, reported April 23, 1985, pertaining to appointments, be taken from the table. The motion prevailed.

Mr. Pehler moved that the foregoing reports be now adopted. The motion prevailed.

Mr. Pehler moved that in accordance with the reports from the Committee on Education, reported April 23, 1985, the Senate, having given its advice, do now consent to and confirm the appointments of:

COUNCIL ON QUALITY EDUCATION

Mary E. Berg, Box 608, Stewartville, Olmsted County, effective February 11, 1985, for a term expiring the first Monday in January, 1989.

Daren Gislason, 110 E. Lyon, Minneota, Lyon County, effective February 11, 1985, for a term expiring the first Monday in January, 1987.

Sherry Roed Munyon, 756 Winslow Ave., St. Paul, Ramsey County, effective February 11, 1985, for a term expiring the first Monday in January, 1989.

Moira Boyne Rummel, 4105 Linden Hills Blvd., Minneapolis, Hennepin County, effective February 11, 1985, for a term expiring the first Monday in January, 1988.

MINNESOTA HIGHER EDUCATION FACILITIES AUTHORITY

Carol A. Blomberg, Rt. 1, Box 95A, Nashwauk, Itasca County, effective February 11, 1985, for a term expiring the first Monday in January, 1986.

Earl Herring, 109 - 14th Ave. S., Moorhead, Clay County, effective December 27, 1984, for a term expiring the first Monday in January, 1989.

Kathryn Jarvinen, 1750 Gilmore Ave., Winona, Winona County, effective February 11, 1985, for a term expiring the first Monday in January, 1989.

STATE BOARD FOR COMMUNITY COLLEGES

Franklin W. Iossi, 815 - 10 1/2 St. S.W., Rochester, Olmsted County, effective December 27, 1984, for a term expiring the first Monday in January, 1989.

Toyse A. Kyle, 3244 Valley Ridge Dr., Eagan, Dakota County, effective January 16, 1985, for a term expiring the first Monday in January, 1989.

Rebecca L. Sawyer, 3990 Upper 71st St. E., Inver Grove Heights, Dakota County, effective December 27, 1984, for a term expiring the first Monday in January, 1987.

STATE BOARD OF EDUCATION

Eunice Johnson, Rt. 2, Box 64, Butterfield, Watonwan County, effective February 27, 1985, for a term expiring the first Monday in January, 1987.

Marjorie Johnson, Box 224, Lake Park, Becker County, effective February 27, 1985, for a term expiring the first Monday in January, 1988.

Thomas R. Lindquist, 12393 Flag Ave. S., Savage, Scott County, effective February 27, 1985, for a term expiring the first Monday in January, 1989.

Lloyd Swenson, Rt. 3, Box 196A, Austin, Mower County, effective August 1, 1984, for a term expiring the first Monday in January, 1987.

Douglas Wallace, 5009 Wentworth Ave. S., Minneapolis, Hennepin County, effective February 27, 1985, for a term expiring the first Monday in January, 1989.

The motion prevailed. So the appointments were confirmed.

CONFIRMATION

Mr. Spear moved that the reports from the Committee on Judiciary, reported April 24, 1985, pertaining to appointments, be taken from the table. The motion prevailed.

Mr. Spear moved that the foregoing reports be now adopted. The motion prevailed.

Mr. Spear moved that in accordance with the reports from the Committee on Judiciary, reported April 24, 1985, the Senate, having given its advice, do now consent to and confirm the appointments of:

BOARD ON JUDICIAL STANDARDS

Hy Applebaum, 290 Woodlawn, St. Paul, Ramsey County, effective January 3, 1984, for a term expiring the first Monday in January, 1988.

Miriam Lee, 4721 Killarney Dr., Golden Valley, Hennepin County, effective February 20, 1985, for a term expiring the first Monday in January, 1989.

Janna Roderick Merrick, 230 York Ave., Elk River, Sherburne County, effective June 6, 1983, for a term expiring the first Monday in January, 1987.

Raul O. Salazar, 5620 Smetana Dr., Minnetonka, Hennepin County,

effective June 6, 1983, for a term expiring the first Monday in January, 1987.

James J. Schumacher, 2008 Indian Rd. W., Minnetonka, Hennepin County, effective February 26, 1982, for a term expiring the first Monday in January, 1986.

The motion prevailed. So the appointments were confirmed.

CONFIRMATION

Mr. Willet moved that the report from the Committee on Finance, reported February 13, 1986, pertaining to appointments, be taken from the table. The motion prevailed.

Mr. Willet moved that the foregoing report be now adopted. The motion prevailed.

Mr. Willet moved that in accordance with the report from the Committee on Finance, reported February 13, 1986, the Senate, having given its advice, do now consent to and confirm the appointment of:

DEPARTMENT OF FINANCE COMMISSIONER

Peter J. Kiedrowski, 1012 W. Minnehaha Pkwy., Minneapolis, Hennepin County, effective June 3, 1985, for a term expiring the first Monday in January, 1987.

CALL OF THE SENATE

Mr. Willet imposed a call of the Senate for the proceedings on this confirmation. The Sergeant at Arms was instructed to bring in the absent members.

The question was taken on the adoption of the motion of Mr. Willet to confirm the appointment of Peter J. Kiedrowski.

The roll was called, and there were yeas 43 and nays 14, as follows:

Those who voted in the affirmative were:

Adkins	Frank	Lessard	Peterson, C. C.	Samuelson
Berg	Freeman	Luther	Peterson, D. C.	Schmitz
Berglin	Hughes	Merriam	Peterson, R. W.	Sieloff
Bertram	Johnson, D. J.	Moe, D. M.	Petty	Solon
Chmielewski	Kamrath	Moe, R. D.	Pogemiller	Spear
DeCramer	Knutson	Nelson	Purfeerst	Vega
Dicklich	Kroening	Novak	Ramstad	Willet
Diessner	Kronebusch	Olson	Reichgott	
Dieterich	Lantry	Pehler	Renneke	

Those who voted in the negative were:

Anderson	Frederick	Isackson	Laidig	Storm
Bernhagen	Frederickson	Johnson, D. E.	McQuaid	Taylor
Brataas	Gustafson	Knaak	Mehrrens	

The motion prevailed. So the appointment was confirmed.

CONFIRMATION

Mr. Johnson, D. J. moved that the report from the Committee on Taxes and Tax Laws, reported February 26, 1986, pertaining to appointments, be taken

from the table. The motion prevailed.

Mr. Johnson, D.J. moved that the foregoing report be now adopted. The motion prevailed.

Mr. Johnson, D.J. moved that in accordance with the report from the Committee on Taxes and Tax Laws, reported February 26, 1986, the Senate, having given its advice, do now consent to and confirm the appointment of:

**DEPARTMENT OF REVENUE
COMMISSIONER**

Tom Triplett, 2415 Sheridan Ave. S., Minneapolis, Hennepin County, effective October 1, 1985, for a term expiring the first Monday in January, 1987.

The motion prevailed. So the appointment was confirmed.

CONFIRMATION

Mr. Johnson, D.J. moved that the report from the Committee on Taxes and Tax Laws, reported April 24, 1985, pertaining to appointments, be taken from the table. The motion prevailed.

Mr. Johnson, D.J. moved that the foregoing report be now adopted. The motion prevailed.

Mr. Johnson, D.J. moved that in accordance with the report from the Committee on Taxes and Tax Laws, reported April 24, 1985, the Senate, having given its advice, do now consent to and confirm the appointment of:

TAX COURT

Jean Stepan, 895 Osceola Ave., St. Paul, Ramsey County, effective January 7, 1985, for a term expiring the first Monday in January, 1991.

The motion prevailed. So the appointment was confirmed.

CONFIRMATION

Mr. Moe, D.M. moved that the report from the Committee on Governmental Operations, reported February 13, 1986, pertaining to appointments, be taken from the table. The motion prevailed.

Mr. Moe, D.M. moved that the foregoing report be now adopted. The motion prevailed.

Mr. Moe, D.M. moved that in accordance with the report from the Committee on Governmental Operations, reported February 13, 1986, the Senate, having given its advice, do now consent to and confirm the appointments of:

**STATE PLANNING AGENCY
DIRECTOR**

Lani Kawamura, 3141 Dean Ct., Minneapolis, Hennepin County, effective October 1, 1985, for a term expiring the first Monday in January, 1987.

**PUBLIC EMPLOYEES RETIREMENT ASSOCIATION
EXECUTIVE DIRECTOR**

James M. Hacking, 79 Western Ave. N., St. Paul, Ramsey County,

effective August 12, 1985.

The motion prevailed. So the appointments were confirmed.

CONFIRMATION

Mr. Purfeerst moved that the report from the Committee on Transportation, reported March 3, 1986, pertaining to appointments, be taken from the table. The motion prevailed.

Mr. Purfeerst moved that the foregoing report be now adopted. The motion prevailed.

Mr. Purfeerst moved that in accordance with the report from the Committee on Transportation, reported March 3, 1986, the Senate, having given its advice, do now consent to and confirm the appointment of:

TRANSPORTATION REGULATION BOARD CHAIRPERSON

Roger Laufenburger, Box 338, Lewiston, Winona County, effective March 11, 1985, for a term expiring the first Monday in January, 1991.

The motion prevailed. So the appointment was confirmed.

CONFIRMATION

Mr. Dieterich moved that the report from the Committee on Public Utilities and State Regulated Industries, reported March 5, 1986, pertaining to appointments, be taken from the table. The motion prevailed.

Mr. Dieterich moved that the foregoing report be now adopted. The motion prevailed.

Mr. Dieterich moved that in accordance with the report from the Committee on Public Utilities and State Regulated Industries, reported March 5, 1986, the Senate, having given its advice, do now consent to and confirm the appointment of:

PUBLIC UTILITIES COMMISSION

Barbara Chapman, 1517 Centre Village, 433 S. 7th St., Minneapolis, Hennepin County, effective January 8, 1986, for a term expiring the first Monday in January, 1992.

The motion prevailed. So the appointment was confirmed.

CONFIRMATION

Mr. Dieterich moved that the report from the Committee on Public Utilities and State Regulated Industries, reported March 6, 1986, pertaining to appointments, be taken from the table. The motion prevailed.

Mr. Dieterich moved that the foregoing report be now adopted. The motion prevailed.

Mr. Dieterich moved that in accordance with the report from the Committee on Public Utilities and State Regulated Industries, reported March 6, 1986, the Senate, having given its advice, do now consent to and confirm the appointments of:

MINNESOTA RACING COMMISSION

Lawrence M. Coss, R.R. 1, Box 20, Cannon Falls, Goodhue County, effective July 1, 1985, for a term expiring June 30, 1991.

Catherine L. Anderson, 10706 Minnetonka Blvd., Hopkins, Hennepin County, effective July 1, 1985, for a term expiring June 30, 1991.

Muriel W. Poehler, R.R. 1, Box 129, Royalton, Morrison County, effective July 1, 1985, for a term expiring June 30, 1991.

The motion prevailed. So the appointments were confirmed.

CONFIRMATION

Mr. Hughes moved that the report from the Committee on Elections and Ethics, reported March 3, 1986, pertaining to appointments, be taken from the table. The motion prevailed.

Mr. Hughes moved that the foregoing report be now adopted. The motion prevailed.

Mr. Hughes moved that in accordance with the report from the Committee on Elections and Ethics, reported March 3, 1986, the Senate, having given its advice, do now consent to and confirm the appointment of:

STATE ETHICAL PRACTICES BOARD

A. J. Eckstein, 411 S. State, New Ulm, Brown County, effective January 6, 1986, for a term expiring the first Monday in January, 1990.

The motion prevailed. So the appointment was confirmed.

CONFIRMATION

Mr. Pehler moved that the reports from the Committee on Education, reported March 10, 1986, pertaining to appointments, be taken from the table. The motion prevailed.

Mr. Pehler moved that the foregoing reports be now adopted. The motion prevailed.

Mr. Pehler moved that in accordance with the reports from the Committee on Education, reported March 10, 1986, the Senate, having given its advice, do now consent to and confirm the appointments of:

COUNCIL ON QUALITY EDUCATION

Carl A. Swenson, Rt. 2, Box 154, Monticello, Wright County, effective January 17, 1986, for a term expiring the first Monday in January, 1990.

MINNESOTA HIGHER EDUCATION COORDINATING BOARD

Thomas Auth, 763 Keller Pkwy., Little Canada, Ramsey County, effective January 17, 1986, for a term expiring the first Monday in January, 1992.

Mona J. Hintzman, 4018 - 58th Ave. N., Brooklyn Center, Hennepin County, effective January 6, 1986, for a term expiring the first Monday in January, 1990.

MINNESOTA HIGHER EDUCATION FACILITIES AUTHORITY

John Amundson, 2005 S. 14th St., St. Cloud, Stearns County, effective

January 17, 1986, for a term expiring the first Monday in January, 1990.

STATE BOARD FOR COMMUNITY COLLEGES

James B. Collier, Jr., 1101 E. Irene, Willmar, Kandiyohi County, effective January 6, 1986, for a term expiring the first Monday in January, 1990.

Pierre Mattei, 823 - 5th Ave. S.W., Grand Rapids, Itasca County, effective January 6, 1986, for a term expiring the first Monday in January, 1990.

STATE BOARD OF EDUCATION

Dr. Erling O. Johnson, 832 Eastwood Ln., Anoka, Anoka County, effective January 6, 1986, for a term expiring the first Monday in January, 1990.

James Hoesel, 5520 Polk Ave., Mayer, Carver County, effective January 6, 1986, for a term expiring the first Monday in January, 1990.

STATE BOARD OF VOCATIONAL TECHNICAL EDUCATION

Douglas D. Knowlton, 823 James Ave. S.E., East Grand Forks, Polk County, effective January 6, 1986, for a term expiring the first Monday in January, 1990.

John O'Connor, 10677 - 114th St., Stillwater, Washington County, effective January 6, 1986, for a term expiring the first Monday in January, 1990.

Julia E. Templin, Rt. 2, Box 131, Pierz, Morrison County, effective February 14, 1986, for a term expiring the first Monday in January, 1988.

STATE UNIVERSITY BOARD

Elizabeth A. Pegues, 27 Nord Circle Rd., North Oaks, Ramsey County, effective January 6, 1986, for a term expiring the first Monday in January, 1990.

Bernard Alvin Miller, 2418 N. Plantagenet Rd. S.W., Bemidji, Beltrami County, effective January 6, 1986, for a term expiring the first Monday in January, 1990.

The motion prevailed. So the appointments were confirmed.

CONFERENCE COMMITTEE EXCUSED

Pursuant to Rule 21, Mr. Willet moved that the following members be excused for a Conference Committee on H.F. No. 2009 at 1:00 p.m.:

Messrs. Willet, Kroening, Luther, Samuelson and Nelson. The motion prevailed.

CONFERENCE COMMITTEE EXCUSED

Pursuant to Rule 21, Mr. Johnson, D.J. moved that the following members be excused for a Conference Committee on H.F. No. 1815 at 1:00 p.m.:

Messrs. Johnson, D.J.; Novak, Ms. Berglin. Messrs. Merriam and Peterson, C.C. The motion prevailed.

SPECIAL ORDER

S.F. No. 1975: A bill for an act relating to venue of actions; modifying

venue in actions to recover possession of personal property; amending Minnesota Statutes 1984, section 542.06.

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 45 and nays 0, as follows:

Those who voted in the affirmative were:

Adkins	Davis	Isackson	McQuaid	Pogemiller
Anderson	DeCramer	Johnson, D.E.	Merriam	Ramstad
Belanger	Diessner	Jude	Olson	Reichgott
Benson	Dieterich	Kamrath	Pehler	Renneke
Berg	Frank	Kroening	Peterson, C.C.	Spear
Bernhagen	Frederickson	Kronebusch	Peterson, D.C.	Storm
Bertram	Freeman	Laidig	Peterson, D.L.	Stumpf
Brataas	Gustafson	Lantry	Peterson, R.W.	Taylor
Chmielewski	Hughes	Lessard	Petty	Waldorf

So the bill passed and its title was agreed to.

SPECIAL ORDER

S.F. No. 2178: A bill for an act relating to environment; prohibiting certain disposal of hazardous waste; regulating release of radionuclides into groundwater; amending Minnesota Statutes 1984, section 115.01, by adding subdivisions; proposing coding for new law in Minnesota Statutes, chapters 115; and 116C.

Mr. Davis moved to amend S.F. No. 2178 as follows:

Page 3, after line 18, insert:

"Sec. 9. Minnesota Statutes 1984, section 115A.25, is amended by adding a subdivision to read:

Subd. 4. [HAZARDOUS WASTE FACILITY MAY NOT BE SITED TO POLLUTE POTABLE WATER.] Notwithstanding other procedures under this chapter, a facility for storing, stabilizing, or disposing of hazardous waste may not be sited or located in a place or manner that can reasonably be expected to cause pollution or contamination of potable water."

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

The motion prevailed. So the amendment was adopted.

S.F. No. 2178 was then progressed.

SPECIAL ORDER

H.F. No. 1950: A bill for an act relating to civil liability; limiting the liability of practitioners for the violent acts of patients; providing immunity to municipalities for certain claims that occur as a result of the use of parks and recreation areas; providing for the manner of claiming punitive damages in civil actions; amending Minnesota Statutes 1984, sections 466.03, by adding a subdivision; 549.20, by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapter 148.

SUSPENSION OF RULES

Mr. Luther moved that an urgency be declared within the meaning of Article IV, Section 19, of the Constitution of Minnesota, with respect to H.F. No. 1950 and that the rules of the Senate be so far suspended as to give H.F. No. 1950, now on Special Orders, its third reading and place it on its final passage. The motion prevailed.

Mr. Luther moved to amend H.F. No. 1950, as amended pursuant to Rule 49, adopted by the Senate March 11, 1986, as follows:

(The text of the amended House File is identical to S.F. No. 1727.)

Page 36, lines 33 and 34, reinstate the stricken language

Page 36, line 34, before "bus" insert "or other"

The motion prevailed. So the amendment was adopted.

Mr. Luther then moved to amend H.F. No. 1950, as amended pursuant to Rule 49, adopted by the Senate March 11, 1986, as follows:

(The text of the amended House File is identical to S.F. No. 1727.)

Page 2, after line 2, insert:

"Section 1. Minnesota Statutes 1985 Supplement, section 3.736, subdivision 1, is amended to read:

Subdivision 1. [GENERAL RULE.] The state will pay compensation for injury to or loss of property or personal injury or death caused by an act or omission of any employee of the state while acting within the scope of his office or employment or peace officer who is not acting on behalf of a private employer and who is acting in good faith pursuant to section 629.40, subdivision 3, under circumstances where the state, if a private person, would be liable to the claimant, *whether arising out of a governmental or proprietary function*. Nothing in this section waives the defense of judicial or legislative immunity except to the extent provided in subdivision 8."

Page 15, line 17, delete "22" and insert "23" and delete "41" and insert "42"

Page 16, line 27, delete "22" and insert "23" and delete "41" and insert "42"

Page 17, line 29, delete "23" and insert "24"

Page 20, line 5, delete "22" and insert "23" and delete "41" and insert "42"

Page 20, line 22, delete "28" and insert "29"

Page 20, line 27, delete "26" and insert "27"

Page 27, line 36, delete "25" and insert "26"

Page 41, lines 5 and 11, delete "2" and insert "4"

Page 53, lines 32 and 35, delete "82" and insert "83"

Page 57, line 21, delete "61" and insert "62" and delete "73" and insert "74"

Page 57, line 23, delete "59, 74, and 77" and insert "60, 75, and 78"

Page 57, line 24, delete "75, 76," and insert "76, 77,"

Page 57, line 25, delete "78 to 82" and insert "79 to 83"

Page 57, line 28, delete "3 to 60 and 83" and insert "4 to 61 and 84"

Page 57, line 29, delete "74" and insert "75"

Renumber the sections in sequence

Amend the title as follows:

Page 1, line 2, after the semicolon, insert "providing for government immunity;"

Page 1, line 40, delete "subdivision" and insert "subdivisions I and"

The motion prevailed. So the amendment was adopted.

Mr. Luther then moved to amend H.F. No. 1950, as amended pursuant to Rule 49, adopted by the Senate March 11, 1986, as follows:

(The text of the amended House File is identical to S.F. No. 1727.)

Page 32, after line 33, insert:

"Sec. 43. [65A.295] [HOMEOWNER'S INSURANCE COVERAGE.]

No insurer may issue or renew a policy of homeowner's insurance insuring real property located in this state after the effective date of this section unless the insured has the option to specify the amount of coverage provided by the policy for structures other than the dwelling and for personal property. Coverage for structures other than the dwelling is the coverage provided under "Coverage B, Other Structures" in the standard homeowner's package policy. Coverage for personal property is the coverage provided under "Coverage C, Personal Property" in the standard homeowner's package policy."

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

The motion prevailed. So the amendment was adopted.

Mr. Luther then moved to amend H.F. No. 1950, as amended pursuant to Rule 49, adopted by the Senate March 11, 1986, as follows:

(The text of the amended House File is identical to S.F. No. 1727.)

Page 49, after line 7, insert:

"Sec. 73. [LAW ENFORCEMENT COSTS.]

When costs are assessed against a municipality for injuries incurred or other medical expenses connected with the arrest of individuals violating Minnesota Statutes, the municipality responsible for the hiring, firing, training, and control of the law enforcement and other employees involved in the arrest is responsible for those costs."

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

The motion prevailed. So the amendment was adopted.

Mr. Luther then moved to amend H.F. No. 1950, as amended pursuant to Rule 49, adopted by the Senate March 11, 1986, as follows:

(The text of the amended House File is identical to S.F. No. 1727.)

Page 54, line 21, before the semicolon, insert "*and that is costly to the other party*"

Page 54, lines 22 and 23, reinstate the stricken language and delete the new language

The motion prevailed. So the amendment was adopted.

Mr. Luther then moved to amend H.F. No. 1950, as amended pursuant to Rule 49, adopted by the Senate March 11, 1986, as follows:

(The text of the amended House File is identical to S.F. No. 1727.)

Page 57, after line 16, insert:

"Sec. 83. [FUND TRANSFERS.]

Until June 30, 1987, the commissioner of finance may transfer from the general fund to another fund the amounts needed to pay obligations of the fund, if the commissioner determines that revenue to the other fund will be sufficient to repay the transfer by June 30, 1987. The amounts needed to make the transfers are appropriated from the general fund. The amount transferred must be repaid to the general fund by June 30, 1987, and the amount necessary to make the repayment is appropriated from the other fund."

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

Mr. Knaak questioned whether the amendment was germane.

The Chair ruled that the amendment was germane.

CALL OF THE SENATE

Mr. Knaak imposed a call of the Senate. The Sergeant at Arms was instructed to bring in the absent members.

Mr. Knaak appealed the decision of the Chair.

Mr. Luther withdrew his amendment.

Mr. Luther then moved to amend H.F. No. 1950, as amended pursuant to Rule 49, adopted by the Senate March 11, 1986, as follows:

(The text of the amended House File is identical to S. F. No. 1727.)

Page 50, line 24, delete "*sickness,*" and insert "*medical*"

Page 50, line 26, delete "*or similar insurance benefits,*"

The motion prevailed. So the amendment was adopted.

Mr. Stumpf moved to amend H.F. No. 1950, as amended pursuant to Rule 49, adopted by the Senate March 11, 1986, as follows:

(The text of the amended House File is identical to S.F. No. 1727.)

Page 36, after line 28, insert:

"Sec. 49. Minnesota Statutes 1984, section 65B.13, is amended to read:

65B.13 [AUTOMOBILE INSURANCE, DISCRIMINATION IN AUTOMOBILE POLICIES FORBIDDEN.]

No insurance company, or its agent, shall refuse to issue any standard policy of motor vehicle insurance or make any discrimination in the acceptance of risks, in rates, premiums, dividends, or benefits of any kind, or by way of rebate:

(a) between persons of the same class, or

(b) on account of race, or

(c) on account of physical handicap if the handicap is compensated for by special training, equipment, prosthetic device, corrective lenses, or medication and if the physically handicapped person;

(1) is licensed by the department of public safety to operate a motor vehicle in this state, and

(2) operates only vehicles which are equipped with auxiliary devices and equipment necessary for safe and effective operation by the handicapped person.

For the purposes of paragraph (a), persons under 25 years of age who have not been convicted of a violation of chapter 169 or an ordinance adopted in conformity with it, other than violations relating to the standing or parking of an unattended vehicle, and who have successfully completed a course of driver's training, shall not be treated as persons of the same class as other persons under 25 years of age who are otherwise of the same class.

Every company or agent violating any of the foregoing provisions shall be fined not more than \$100 per violation, and every officer, agent, or solicitor violating the same shall be guilty of a misdemeanor. The commissioner of commerce is authorized to treat violations of this section as an unfair insurance practice and to enforce this section using the procedures, remedies, and penalties provided in sections 72A.17 to 72A.32.

Sec. 50. Minnesota Statutes 1984, section 65B.133, subdivision 5, is amended to read:

Subd. 5. [LIMITATION ON CHARGEABLE ACCIDENTS AND TRAFFIC VIOLATIONS.] *No accident is chargeable to a driver if the vehicle being driven was stationary at the time of the accident, or if the vehicle collided or came in contact with a vehicle being driven by a driver who is convicted of, or forfeits bail as a result of a collision for a violation of chapter 169, or an ordinance adopted in conformity with it. No traffic violation is chargeable to a driver unless the driver is convicted of, or forfeits bail for, the offense, or the driver's license is revoked pursuant to section 169.123. No violation of section 169.14, 169.141, or any ordinance adopted in conformity with those sections is chargeable to a driver unless the driver is convicted of driving more than ten miles per hour over the applicable maximum speed limit. If a surcharge is applied because bail is forfeited and if the driver*

is later acquitted of the offense, the insurer shall rebate the surcharge. A violation of section 169.685, subdivision 5 is not chargeable."

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

Mr. Kamrath requested division of the Stumpf amendment as follows:

First portion:

Page 36, after line 28, insert:

"Sec. 49. Minnesota Statutes 1984, section 65B.13, is amended to read:

**65B.13 [AUTOMOBILE INSURANCE, DISCRIMINATION IN
AUTOMOBILE POLICIES FORBIDDEN:]**

No insurance company, or its agent, shall refuse to issue any standard policy of motor vehicle insurance or make any discrimination in the acceptance of risks, in rates, premiums, dividends, or benefits of any kind, or by way of rebate:

(a) between persons of the same class, or

(b) on account of race, or

(c) on account of physical handicap if the handicap is compensated for by special training, equipment, prosthetic device, corrective lenses, or medication and if the physically handicapped person;

(1) is licensed by the department of public safety to operate a motor vehicle in this state, and

(2) operates only vehicles which are equipped with auxiliary devices and equipment necessary for safe and effective operation by the handicapped person.

For the purposes of paragraph (a), persons under 25 years of age who have not been convicted of a violation of chapter 169 or an ordinance adopted in conformity with it, other than violations relating to the standing or parking of an unattended vehicle, and who have successfully completed a course of driver's training, shall not be treated as persons of the same class as other persons under 25 years of age who are otherwise of the same class.

Every company or agent violating any of the foregoing provisions shall be fined not more than \$100 per violation, and every officer, agent, or solicitor violating the same shall be guilty of a misdemeanor. The commissioner of commerce is authorized to treat violations of this section as an unfair insurance practice and to enforce this section using the procedures, remedies, and penalties provided in sections 72A.17 to 72A.32."

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

Second portion:

Page 36, after line 28, insert:

"Sec. 50. Minnesota Statutes 1984, section 65B.133, subdivision 5, is amended to read:

Subd. 5. [LIMITATION ON CHARGEABLE ACCIDENTS AND TRAFFIC VIOLATIONS.] *No accident is chargeable to a driver if the vehicle being driven was stationary at the time of the accident, or if the vehicle collided or came in contact with a vehicle being driven by a driver who is convicted of, or forfeits bail for a violation of chapter 169, or an ordinance adopted in conformity with it. No traffic violation is chargeable to a driver unless the driver is convicted of, or forfeits bail for, the offense, or the driver's license is revoked pursuant to section 169.123. No violation of section 169.14, 169.141, or any ordinance adopted in conformity with those sections is chargeable to a driver unless the driver is convicted of driving more than ten miles per hour over the applicable maximum speed limit. If a surcharge is applied because bail is forfeited and if the driver is later acquitted of the offense, the insurer shall rebate the surcharge. A violation of section 169.685, subdivision 5 is not chargeable.*"

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

The question was taken on the adoption of the second portion of the Stumpf amendment.

The roll was called, and there were yeas 19 and nays 35, as follows:

Those who voted in the affirmative were:

Adkins	Davis	Lessard	Petty	Solon
Berg	DeCramer	Luther	Pogemiller	Stumpf
Bertram	Dicklich	Moe, R.D.	Purfeerst	Vega
Chmielewski	Hughes	Peterson, D.C.	Schmitz	

Those who voted in the negative were:

Anderson	Frederick	Knaak	Mehrkens	Reichgott
Belanger	Frederickson	Knutson	Nelson	Renneke
Benson	Freeman	Kronebusch	Olson	Sieloff
Bernhagen	Gustafson	Laidig	Pehler	Spear
Brataas	Isackson	Langseth	Peterson, D.L.	Storm
Dieterich	Jude	Lantry	Peterson, R.W.	Taylor
Frank	Kamrath	McQuaid	Ramstad	Waldorf

The motion did not prevail. So the second portion of the amendment was not adopted.

Mr. Stumpf withdrew the first portion of his amendment.

Mr. Petty moved to amend H.F. No. 1950, as amended pursuant to Rule 49, adopted by the Senate March 11, 1986, as follows:

(The text of the amended House File is identical to S.F. No. 1727.)

Page 7, line 28, delete "(I)"

Page 7, line 30, before the semicolon, insert *“, and includes claims under an additional or extended reporting period beyond the policy's termination for reporting claims if the additional or extended reporting period is provided in the policy without additional charge or has been purchased by the insured prior to the entry of an order of liquidation with a finding of insolvency”*

Page 7, lines 30 to 36, delete the new language

Page 8, delete lines 1 to 7.

The motion prevailed. So the amendment was adopted.

Mr. Petty then moved to amend H.F. No. 1950, as amended pursuant to Rule 49, adopted by the Senate March 11, 1986, as follows:

(The text of the amended House File is identical to S.F. No. 1727.)

Page 38, line 3, before the comma, insert "*in that class of business*"

Page 40, line 19, delete "*334.011*" and insert "*549.09*"

Page 40, line 20, after the period, insert "*The amount of the refund, plus interest, must be computed from the commencement date of the contested case hearing on the rate.*"

The motion prevailed. So the amendment was adopted.

Mr. Sieloff moved to amend H.F. No. 1950, as amended pursuant to Rule 49, adopted by the Senate March 11, 1986, as follows:

(The text of the amended House File is identical to S.F. No. 1727.)

Page 10, delete section 10

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

The motion prevailed. So the amendment was adopted.

Mr. Sieloff then moved to amend H.F. No. 1950, as amended pursuant to Rule 49, adopted by the Senate March 11, 1986, as follows:

(The text of the amended House File is identical to S.F. No. 1727.)

Page 49, after line 16, insert:

"Sec. 74. Minnesota Statutes 1984, section 541.051, is amended to read:

541.051 [LIMITATION OF ACTION FOR DAMAGES BASED ON SERVICES OR CONSTRUCTION TO IMPROVE REAL PROPERTY.]

Subdivision 1. Except where fraud is involved, no action by any person in contract, tort, or otherwise to recover damages for any injury to property, real or personal, or for bodily injury or wrongful death, arising out of the defective and unsafe condition of an improvement to real property, nor any action for contribution or indemnity for damages sustained on account of the injury, shall be brought against any person performing or furnishing the design, planning, supervision, materials, or observation of construction or construction of the improvement to real property or against the owner of the real property more than two years after discovery thereof, nor, in any event shall such a cause of action accrue more than ~~45~~ *seven* years after substantial completion of the construction. Date of substantial completion shall be determined by the date when construction is sufficiently completed so that the owner or his representative can occupy or use the improvement for the intended purpose.

Nothing in this section shall apply to actions for damages resulting from negligence in the maintenance, operation or inspection of the real property improvement against the owner or other person in possession.

Subd. 2. Notwithstanding the provisions of subdivision 1, in the case of an action which accrues during the ~~14th~~ *sixth* or ~~15th~~ *seventh* year after substantial completion of the construction, an action to recover damages may be brought within two years after the date on which the action accrued, but in no event may an action be brought more than ~~17~~ *nine* years after substantial completion of the construction.

Subd. 3. Nothing in this section shall be construed as extending the period prescribed by the laws of this state for the bringing of any action.

Subd. 4. This section shall not apply to actions based on breach of the statutory warranties set forth in section 327A.02, or to actions based on breach of an express written warranty, provided such actions shall be brought within two years of the discovery of the breach."

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. Reichgott moved to amend H.F. No. 1950, as amended pursuant to Rule 49, adopted by the Senate March 11, 1986, as follows:

(The text of the amended House File is identical to S.F. No. 1727.)

Page 44, after line 7, insert:

"Sec. 60. [148.975] [LIMITATION ON LIABILITY; VIOLENT BEHAVIOR OF PATIENT.]

Subdivision 1. [DEFINITIONS.] (a) The definitions in this subdivision apply to this section.

(b) "Practitioner" means a psychologist, school psychologist, nurse, chemical dependency counselor, or social worker who is licensed by the state or who performs psychotherapy within a program or facility licensed by the state or established pursuant to rules adopted under section 245.69, subdivision 2.

(c) "Psychotherapy" means the professional treatment, assessment, or counseling of a mental or emotional illness, symptom, or condition.

Subd. 2. [LIABILITY STANDARD.] No monetary liability and no cause of action may arise against a practitioner for failure to predict, warn of, or take reasonable precautions to provide protection from, a patient's violent behavior, unless the patient or other person has communicated to the practitioner a specific, serious threat of physical violence against a specific, clearly identified or identifiable potential victim.

Subd. 3. [DUTY TO WARN.] The duty to predict, warn of, or take reasonable precautions to provide protection from, violent behavior arises only under the limited circumstances specified in subdivision 2. The duty is discharged by the practitioner if reasonable efforts are made to communicate the threat to the potential victim.

Subd. 4. [DISCLOSURE OF CONFIDENCES.] No monetary liability and no cause of action, or disciplinary action by the state board of psychology or board of nursing may arise against a practitioner for disclosing con-

fidences to third parties in a good faith effort to discharge a duty arising under this section.

Subd. 5. [CONTINUITY OF CARE.] Nothing in subdivision 3 shall be construed to authorize a practitioner to terminate treatment of a patient as a direct result of a patient's violent behavior or threat of physical violence unless the patient is referred to another practitioner or appropriate health care facility.

Subd. 6. [EXCEPTION.] This section does not apply to a threat to commit suicide or other threats by a patient to harm the patient, or to a threat by a patient who is adjudicated mentally ill and dangerous under chapter 253B."

Page 57, after line 26, insert:

"Section 60 is effective August 1, 1986, and applies to causes of action arising on or after that date."

Renumber the sections in sequence

Correct the internal references

Amend the title as follows:

Page 1, line 21, after the second semicolon, insert "limiting civil liability of practitioners for violent acts of patients;"

Page 1, line 42, after the second semicolon, insert "148;"

Mr. Petty moved to amend the Reichgott amendment to H.F. No. 1950 as follows:

Page 1, after line 19, insert:

"(d) "Reasonable efforts" means communicating the serious, specific threat to the potential victim and if unable to make contact with the potential victim, communicating the serious, specific threat to the law enforcement agency closest to the potential victim or the patient."

Page 1, line 24, delete "or other person"

The motion prevailed. So the amendment to the amendment was adopted.

Mr. Peterson, R.W. moved to amend the Reichgott amendment to H.F. No. 1950 as follows:

Page 1, line 11, before "psychologist" insert "physician,"

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

The question recurred on the adoption of the Reichgott amendment, as amended. The motion did not prevail. So the amendment, as amended, was not adopted.

Mr. Luther moved to amend H.F. No. 1950, as amended pursuant to Rule 49, adopted by the Senate March 11, 1986, as follows:

(The text of the amended House File is identical to S.F. No. 1727.)

Page 16, line 35, delete "21" and insert "21.2"

Page 41, lines 5 and 11, delete "2" and insert "3"

The motion prevailed. So the amendment was adopted.

Mr. Luther then moved to amend H.F. No. 1950, as amended pursuant to Rule 49, adopted by the Senate March 11, 1986, as follows:

(The text of the amended House File is identical to S.F. No. 1727.)

Page 36, after line 28, insert:

"Sec. 49. Minnesota Statutes 1984, section 65B.13, is amended to read:

65B.13 [AUTOMOBILE INSURANCE, DISCRIMINATION IN AUTOMOBILE POLICIES FORBIDDEN.]

No insurance company, or its agent, shall refuse to issue any standard or preferred policy of motor vehicle insurance or make any discrimination in the acceptance of risks, in rates, premiums, dividends, or benefits of any kind, or by way of rebate:

(a) between persons of the same class, or

(b) on account of race, or

(c) on account of physical handicap if the handicap is compensated for by special training, equipment, prosthetic device, corrective lenses, or medication and if the physically handicapped person;

(1) is licensed by the department of public safety to operate a motor vehicle in this state, and

(2) operates only vehicles which are equipped with auxiliary devices and equipment necessary for safe and effective operation by the handicapped person, or

(d) on account of marital dissolution.

Every company or agent violating any of the foregoing provisions shall be fined not more than \$100 per violation, and every officer, agent, or solicitor violating the same shall be guilty of a misdemeanor. The commissioner of commerce is authorized to treat violations of this section as an unfair insurance practice and to enforce this section using the procedures, remedies, and penalties provided in sections 72A.17 to 72A.32.

Sec. 50. [65B.1311] [COVERAGE FOR FORMER SPOUSE.]

Subdivision 1. [NEW POLICY ISSUED.] If the former spouse of a named insured under a policy of private passenger vehicle insurance applies within 60 days of entry of a valid decree of dissolution of the marriage and the former spouse was an insured driver under the policy for at least 12 months prior to entry of the decree, the insurer must issue a policy, upon payment of the appropriate premium, to the former spouse only on the basis of the driving record applicable to the former spouse and any person who is to be an insured, as defined in section 65B.43, under the policy to be issued, provided the person or persons to be insured meets the insurer's eligibility standards.

Subd. 2. [NAMED INSURED.] A named insured under a policy of private passenger vehicle insurance shall have the premium determined at the first and any subsequent renewals of the policy after entry of a valid decree of dissolution of the marriage of the named insured only on the basis of the driving record applicable to the named insured and any person who is to be

an insured, as defined in section 65B.43, under the policy to be renewed."

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

The motion prevailed. So the amendment was adopted.

Mr. Peterson, R.W. moved to amend H.F. No. 1950, as amended pursuant to Rule 49, adopted by the Senate March 11, 1986, as follows:

(The text of the amended House File is identical to S.F. No. 1727.)

Page 55, after line 29, insert:

"Sec. 80. Minnesota Statutes 1984, section 604.01, subdivision 1, is amended to read:

Subdivision 1. [SCOPE OF APPLICATION.] Contributory fault shall not bar recovery in an action by any person or his legal representative to recover damages for fault resulting in death or in injury to person or property; ~~if the contributory fault was not greater than the fault of the person against whom recovery is sought, but any damages allowed shall be diminished in proportion to the amount of fault attributable to the person recovering.~~ The court may, and when requested by any party shall, direct the jury to find separate special verdicts determining the amount of damages and the percentage of fault attributable to each party; ~~and the court shall then reduce the amount of damages in proportion to the amount of fault attributable to the person recovering.~~"

Page 55, line 34, strike " ; except that each is "

Page 55, line 35, strike everything before the period and delete the new language

Page 55, delete line 36

Page 56, delete lines 1 to 3

Page 57, line 18, delete "section" and insert "sections" and delete "is" and insert "and 604.02, subdivisions 2 and 3, are"

Renumber the sections in sequence

Correct the internal references

Amend the title as follows:

Page 1, line 21, after the second semicolon, insert "modifying comparative fault; eliminating joint and several liability;"

Page 1, line 38, after the second semicolon, insert "604.01, subdivision 1;"

Page 1, line 45, delete "section" and insert "sections" and before the period, insert " ; and 604.02, subdivisions 2 and 3 "

The motion prevailed. So the amendment was adopted.

Mr. Solon moved to amend H.F. No. 1950, as amended pursuant to Rule 49, adopted by the Senate March 11, 1986, as follows:

(The text of the amended House File is identical to S.F. No. 1727.)

Page 45, after line 25, insert:

"Sec. 61. Minnesota Statutes 1984, section 398A.04, subdivision 6, is amended to read:

Subd. 6. [INSURANCE AND INDEMNITY.] (a) The authority shall be subject to tort liability to the extent provided in chapter 466 and may procure insurance against the liability, and may indemnify and purchase and maintain insurance on behalf of any of its commissioners, officers, employees, or agents, in connection with any threatened, pending, or completed action, suit, or proceeding, as provided in chapter 466, and to the same extent and in the same manner and with the same force and effect as provided in the case of a private corporation by section ~~300.082~~ 300.083. It may also procure insurance against loss of or damage to property in the amounts, by reason of the risks, and from the insurers as it deems prudent.

(b) *A railroad leasing its tracks and right-of-way to a railroad authority created under this chapter is subject to tort liability only to the extent provided for municipalities in chapter 466 as to any claims arising out of fare-paying passenger operations carried on by the railroad authority on tracks and right-of-way leased from the railroad.*"

Renumber the sections in sequence

Correct the internal references

Amend the title as follows:

Page 1, line 34, after the second semicolon, insert "398A.04, subdivision 6;"

The motion prevailed. So the amendment was adopted.

Mr. Taylor moved to amend H.F. No. 1950, as amended pursuant to Rule 49, adopted by the Senate March 11, 1986, as follows:

(The text of the amended House File is identical to S.F. No. 1727.)

Page 45, after line 25, insert:

"Sec. 61. [317.201] [UNPAID DIRECTORS OR TRUSTEES; LIABILITY FOR DAMAGES.]

A director or trustee of a nonprofit corporation or association who is not paid for services to the corporation or association is not individually liable for damages occasioned solely by reason of membership on or participation in board activities."

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

The motion prevailed. So the amendment was adopted.

RECONSIDERATION

Having voted on the prevailing side, Mr. Peterson, R.W. moved that the vote whereby the Peterson, R.W. amendment to H.F. No. 1950 was adopted on March 11, 1986, be now reconsidered.

CALL OF THE SENATE

Mr. Peterson, R.W. imposed a call of the Senate for the reconsideration

of his amendment. The Sergeant at Arms was instructed to bring in the absent members.

The motion prevailed. So the vote was reconsidered.

The question recurred on the adoption of the amendment.

The roll was called, and there were yeas 39 and nays 25, as follows:

Those who voted in the affirmative were:

Benson	Frank	Langseth	Olson	Reichgott
Berglin	Freeman	Lantry	Pehler	Samuelson
Bertram	Gustafson	Lessard	Peterson, C.C.	Schmitz
Chmielewski	Hughes	Luther	Peterson, D.C.	Spear
Davis	Johnson, D.J.	Merriam	Peterson, R.W.	Stumpf
DeCramer	Jude	Moe, R.D.	Pogemiller	Vega
Dicklich	Kroening	Nelson	Purfeerst	Willet
Dieterich	Kronebusch	Novak	Ramstad	

Those who voted in the negative were:

Adkins	Brataas	Johnson, D.E.	McQuaid	Sieloff
Anderson	Diessner	Kamrath	Mehrkins	Storm
Belanger	Frederick	Knaak	Moe, D.M.	Taylor
Berg	Frederickson	Knutson	Peterson, D.L.	Waldorf
Bernhagen	Isackson	Laidig	Renneke	Wegscheid

The motion prevailed. So the amendment was adopted.

Mr. Chmielewski moved to amend H.F. No. 1950, as amended pursuant to Rule 49, adopted by the Senate March 11, 1986, as follows:

(The text of the amended House File is identical to S. F. No. 1727.)

Page 54, before line 33, insert:

“Sec. 79. [549.23] [NONECONOMIC LOSSES; LIMITATIONS.]

Subdivision 1. [DEFINITION.] For purposes of this section, “noneconomic loss” means all nonpecuniary harm for which damages are recoverable, including but not limited to pain, disability, disfigurement, embarrassment, emotional distress, and loss of consortium.

Subd. 2. [LIMITATION.] In civil actions, whether based on contract or tort, the amount of damages per person for noneconomic losses may not exceed \$400,000.”

Page 57, line 23, delete “and” and after “77” insert “and 79”

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

The question was taken on the adoption of the amendment.

The roll was called, and there were yeas 32 and nays 32, as follows:

Those who voted in the affirmative were:

Adkins	Brataas	Isackson	Nelson	Storm
Anderson	Chmielewski	Johnson, D.E.	Olson	Stumpf
Belanger	Davis	Kamrath	Pehler	Taylor
Benson	DeCramer	Kronebusch	Peterson, D.L.	Wegscheid
Berg	Frederick	Laidig	Ramstad	
Bernhagen	Frederickson	Langseth	Renneke	
Bertram	Gustafson	Mehrkins	Samuelson	

Those who voted in the negative were:

Berglin	Johnson, D.J.	Luther	Peterson, R.W.	Solon
Dicklich	Jude	McQuaid	Petty	Spear
Diessner	Knaak	Merriam	Pogemiller	Vega
Dieterich	Knutson	Moe, D.M.	Purfeerst	Waldorf
Frank	Kroening	Moe, R.D.	Reichgott	
Freeman	Lantry	Novak	Schmitz	
Hughes	Lessard	Peterson, D.C.	Sieloff	

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

Mr. Wegscheid moved to amend H.F. No. 1950, as amended pursuant to Rule 49, adopted by the Senate March 11, 1986, as follows:

(The text of the amended House File is identical to S.F. No. 1727.)

Pages 15 to 31, delete sections 22 to 41

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

The question was taken on the adoption of the amendment.

The roll was called, and there were yeas 31 and nays 33, as follows:

Those who voted in the affirmative were:

Adkins	Chmielewski	Jude	Mehrken	Taylor
Anderson	Frederick	Kamrath	Olson	Waldorf
Belanger	Frederickson	Knaak	Peterson, D.L.	Wegscheid
Benson	Gustafson	Knutson	Ramstad	
Berg	Hughes	Kronebusch	Renneke	
Bernhagen	Isackson	Laidig	Sieloff	
Brataas	Johnson, D.E.	McQuaid	Storm	

Those who voted in the negative were:

Berglin	Frank	Merriam	Peterson, D.C.	Schmitz
Bertram	Freeman	Moe, D.M.	Peterson, R.W.	Solon
Davis	Kroening	Moe, R.D.	Petty	Spear
DeCramer	Langseth	Nelson	Pogemiller	Stumpf
Dicklich	Lantry	Novak	Purfeerst	Vega
Diessner	Lessard	Pehler	Reichgott	
Dieterich	Luther	Peterson, C.C.	Samuelson	

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

Mr. Wegscheid then moved to amend H.F. No. 1950, as amended pursuant to Rule 49, adopted by the Senate March 11, 1986, as follows:

(The text of the amended House File is identical to S.F. No. 1727.)

Page 15, line 22, delete "to provide insurance"

Page 15, delete lines 23 to 29 and insert "and"

CALL OF THE SENATE

Mr. Luther imposed a call of the Senate for the balance of the proceedings on H.F. No. 1950. The Sergeant at Arms was instructed to bring in the absent members.

The question was taken on the adoption of the Wegscheid amendment.

The roll was called, and there were yeas 30 and nays 33, as follows:

Those who voted in the affirmative were:

Adkins	Brataas	Johnson, D.E.	Laidig	Renneke
Anderson	Chmielewski	Jude	McQuaid	Sieloff
Belanger	Frederick	Kamrath	Mehrkens	Storm
Benson	Frederickson	Knaak	Olson	Taylor
Berg	Gustafson	Knutson	Peterson, D.L.	Waldorf
Bernhagen	Isackson	Kronebusch	Ramstad	Wegscheid

Those who voted in the negative were:

Berglin	Freeman	Merriam	Peterson, D.C.	Schmitz
Bertram	Hughes	Moe, D.M.	Peterson, R.W.	Spear
Davis	Kroening	Moe, R.D.	Petty	Stumpf
DeCramer	Langseth	Nelson	Pogemiller	Vega
Dicklich	Lantry	Novak	Purfeerst	Willet
Dieterich	Lessard	Pehler	Reichgott	
Frank	Luther	Peterson, C.C.	Samuelson	

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

Mr. Benson moved to amend H.F. No. 1950, as amended pursuant to Rule 49, adopted by the Senate March 11, 1986, as follows:

(The text of the amended House File is identical to S.F. No. 1727.)

Page 34, line 21, reinstate the stricken language

Page 36, line 26, delete "*farmowners and operators*,"

The motion prevailed. So the amendment was adopted.

Mr. Waldorf moved to amend H.F. No. 1950, as amended pursuant to Rule 49, adopted by the Senate March 11, 1986, as follows:

(The text of the amended House File is identical to S.F. No. 1727.)

Pages 53 and 54, delete section 77 and insert:

"Sec. 77. Minnesota Statutes 1984, section 549.20, subdivision 1, is amended to read:

Subdivision 1. *Except as provided in subdivision 4, punitive damages shall be allowed in civil actions only upon clear and convincing evidence that the acts of the defendant show a willful indifference to intentional disregard of the rights or safety of others.*

Sec. 78. Minnesota Statutes 1984, section 549.20, is amended by adding a subdivision to read:

Subd. 4. In any civil action, whether based on contract or tort, no original complaint, crossclaim, counterclaim, or third party claim that seeks unliquidated damages may assert a claim for punitive or exemplary damages. A complaint or claim may be amended to include a claim for punitive or exemplary damages by leave of the court only after discovery is completed. The court shall grant leave to amend the complaint or claim if the parties agree or if the moving party presents evidence supporting the claim for punitive or exemplary damages, and that evidence, in relation to the requirements of this section, is sufficient to withstand a motion for a directed verdict against the moving party on the claim for punitive or exemplary damages.

Any amendment made pursuant to this subdivision relates back to the date

of the commencement of the original action for the purposes of any applicable statute of limitations."

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

The question was taken on the adoption of the amendment.

The roll was called, and there were yeas 32 and nays 32, as follows:

Those who voted in the affirmative were:

Adkins	Chmielewski	Kamrath	Nelson	Storm
Anderson	Diessner	Knutson	Olson	Taylor
Belanger	Frederick	Kronebusch	Peterson, D.L.	Waldorf
Benson	Frederickson	Laidig	Ramstad	Wegscheid
Berg	Gustafson	Lessard	Renneke	
Bernhagen	Isackson	McQuaid	Samuelson	
Brataas	Johnson, D.E.	Mehrkins	Sieloff	

Those who voted in the negative were:

Berglin	Freeman	Luther	Peterson, R.W.	Spear
Bertram	Hughes	Merriam	Petty	Stumpf
Davis	Jude	Moe, D.M.	Pogemiller	Vega
DeCramer	Knaak	Novak	Purfeerst	Willet
Dicklich	Kroening	Pehler	Reichgott	
Dieterich	Langseth	Peterson, C.C.	Schmitz	
Frank	Lantry	Peterson, D.C.	Solon	

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

Mr. Kamrath moved to amend the Peterson, R.W. amendment to H.F. No. 1950, adopted by the Senate March 11, 1986, as follows:

Page 1 of the amendment, delete lines 6 to 21

Page 2 of the amendment, delete lines 5 and 6

Page 2, line 9 of the amendment, delete "modifying comparative fault;"

Page 2 of the amendment, delete lines 11 and 12

The question was taken on the adoption of the amendment.

The roll was called, and there were yeas 35 and nays 31, as follows:

Those who voted in the affirmative were:

Adkins	Brataas	Isackson	Lessard	Renneke
Anderson	Chmielewski	Johnson, D.E.	McQuaid	Samuelson
Belanger	Diessner	Kamrath	Mehrkins	Sieloff
Benson	Frank	Knaak	Nelson	Storm
Berg	Frederick	Knutson	Olson	Taylor
Bernhagen	Frederickson	Kronebusch	Peterson, D.L.	Waldorf
Bertram	Gustafson	Laidig	Ramstad	Wegscheid

Those who voted in the negative were:

Berglin	Johnson, D.J.	Moe, D.M.	Petty	Stumpf
Davis	Jude	Moe, R.D.	Pogemiller	Vega
DeCramer	Kroening	Novak	Purfeerst	Willet
Dicklich	Langseth	Pehler	Reichgott	
Dieterich	Lantry	Peterson, C.C.	Schmitz	
Freeman	Luther	Peterson, D.C.	Solon	
Hughes	Merriam	Peterson, R.W.	Spear	

The motion prevailed. So the amendment was adopted.

Mr. Solon moved to amend H.F. No. 1950, as amended pursuant to Rule 49, adopted by the Senate March 11, 1986, as follows:

(The text of the amended House File is identical to S.F. No. 1727.)

Page 7, after line 23, insert:

"Sec. 7. [60A.29] [NONPROFIT RISK INDEMNIFICATION TRUST ACT.]

Subdivision 1. [TITLE.] This section may be cited as the "nonprofit risk indemnification trust act."

Subd. 2. [PURPOSE.] The purpose of this section is to authorize the establishment of trust funds for the purpose of indemnifying nonprofit beneficiary organizations for financial loss due to damage, destruction, or loss of property or the imposition of legal liability; and to regulate the operation of trust funds established under this section.

Subd. 3. [APPROVAL OF COMMISSIONER.] No trust fund with the purpose of indemnifying multiple nonprofit beneficiary organizations shall be established without the prior approval of the commissioner of the department of commerce. The commissioner shall withhold approval of any trust fund that fails to comply with the provisions and requirements of this section.

Subd. 4. [ELIGIBLE BENEFICIARIES.] No organization, corporation, agency, or program shall be a beneficiary of any trust fund established under this section unless it is exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1954, as amended through December 30, 1985. No trust fund established under this section shall agree to indemnify the state of Minnesota, any political subdivision of the state, or any hospital licensed pursuant to section 144.55. No trust fund established under this section shall indemnify any beneficiary for loss or damage to property permanently located outside the boundaries of this state or for legal liabilities arising from operations or activities occurring outside this state, except where those operations or activities are of a nonroutine nature; provided, however, that this restriction shall not apply to a beneficiary which is incorporated under the laws of this state and has its principal office located in this state.

Subd. 5. [INELIGIBLE RISKS.] No trust fund established under this section shall indemnify any beneficiary for liabilities incurred under the workers' compensation act or for benefits provided to employees pursuant to any medical, dental, life, or disability income protection plan.

Subd. 6. [BENEFIT SCHEDULES.] Every trust fund established under this section shall establish in its bylaws or plan of operation a schedule of benefits, to be approved by the commissioner, governing the indemnification of beneficiaries of the trust. The schedule of benefits shall include all conditions, limitations, and exclusions relevant to indemnification.

Subd. 7. [INDEMNIFICATION AGREEMENTS.] Every trust fund established under this section shall provide each of its beneficiaries with a written indemnification agreement specifying the rights and obligations of the trust fund and the beneficiary under the agreement. No indemnification agreement shall be issued to a beneficiary unless it has been filed with and approved by the commissioner.

Subd. 8. [CONTRIBUTIONS.] The trust fund shall establish contribu-

tions required of beneficiaries necessary to fund the operations of the fund. All contributions shall be filed with and approved by the commissioner prior to use. Contributions must be based on sound actuarial principles and be adequate to fund the operation of the trust fund. Contributions may not be excessive, in relation to the benefits provided, or unfairly discriminatory.

Subd. 9. [MULTIPLE TRUST AGREEMENTS PROHIBITED.] No trust fund established under this section shall enter into an agreement with any other trust fund whereby the risks assumed by each are pooled or shared.

Subd. 10. [BOARD OF TRUSTEES.] Every trust fund established under this section shall be governed by a board of no fewer than five trustees. The initial trustees need not be appointed or elected by the beneficiaries of the trust fund. During the second year following the creation of an authorized trust fund, at least one-fourth of all its trustees in office shall have been elected or appointed by the beneficiaries. After the end of the second year following the creation of an authorized trust fund, a majority of all trustees in office shall have been elected or appointed by the beneficiaries. All trustees serving during the first two years following the creation of an authorized trust fund shall be elected or appointed for one-year terms. All trustees serving thereafter shall be elected or appointed for two-year terms, provided that the trustees may be elected or appointed for one-year terms to the extent necessary in order to create staggered terms. Any trustee may be removed at any time, with or without cause, by a majority vote of the beneficiaries. The board of trustees shall meet no fewer than four times each year.

Subd. 11. [TRUSTEES; COMPENSATION.] No trustee shall be paid a salary or receive other compensation for service as a trustee, except that the bylaws or plan of operation may provide for reimbursement for actual expenses incurred on behalf of the trust fund and for the payment of a reasonable per diem amount for attendance at meetings of the board.

Subd. 12. [BYLAWS; PLAN OF OPERATION.] The trustees of each trust fund authorized under this section shall cause to be adopted a set of bylaws or plan of operation which shall govern the operation of the trust fund. All bylaws or plans of operation or amendments to them are subject to prior approval by the commissioner. The commissioner shall adopt rules governing the content and approval of bylaws or plans of operation.

Subd. 13. [FINANCIAL STATEMENT; REPORT ON OPERATIONS.] Every trust fund authorized under this section shall, by June 1 of every year, file with the commissioner a financial statement for the previous year's operations. The financial statement must include the opinion of a certified public accountant that the statement was prepared in conformity with generally accepted accounting principles. Also by June 1 of every year, every trust fund must file with the commissioner, on forms provided by the department, a report summarizing the trust fund's operations during the previous year.

Subd. 14. [FINANCIAL STANDARDS.] Every authorized trust fund shall have and maintain financial assets sufficient to satisfy all current and future financial obligations and responsibilities to beneficiaries. The commissioner shall adopt rules establishing minimum financial standards for authorized trust funds.

Subd. 15. [CONTRACTS; FEES.] Authorized trust funds may enter into

contracts with risk management service providers, actuarial consultants, or other vendors as are necessary to ensure the effective and efficient operation of the trust fund. Fees paid to vendors for services provided must not be excessive.

Subd. 16. [REINSURANCE.] Authorized trust funds may insure or reinsure their obligations and liabilities with insurance companies authorized to do business in Minnesota, pursuant to section 60A.06, or with companies similarly authorized in any other state of the United States.

Subd. 17. [INTERBENEFICIARY CAUSE OF ACTION.] No beneficiary shall have any cause of action against any other beneficiary arising solely out of the insolvency of inability of the trust fund to meet its obligations.

Subd. 18. [EXAMINATION.] The commissioner may examine authorized trust funds to the same extent and with the same purpose as is provided, with respect to insurance companies, by section 60A.031.

Subd. 19. [SECURITY DEPOSIT.] As a condition of authorization, every trust fund shall deposit with the commissioner an acceptable security of a value equal to not less than \$500,000. In the event that a trust fund fails to honor the obligations assumed by it under trust agreements issued to its beneficiaries, use of the security deposit shall revert to the commissioner for the purpose of executing the trust fund's obligations to its beneficiaries. The commissioner shall adopt rules governing the amount of security required and the acceptable forms of security.

Subd. 20. [RULES.] The commissioner may adopt rules to enforce and administer the requirements of this section.

Subd. 21. [TRUST FUNDS NOT SUBJECT TO INSURANCE REGULATIONS.] Trust funds established under this section shall not be considered insurance companies or to be in the business of insurance nor shall they be subject to regulation by the commissioner, except as provided for in this section."

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

The motion prevailed. So the amendment was adopted.

Mr. Kamrath moved to amend H.F. No. 1950, as amended pursuant to Rule 49, adopted by the Senate March 11, 1986, as follows:

(The text of the amended House File is identical to S.F. No. 1727.)

Page 54, after line 32, insert:

"Sec. 79. [549.22] [NONECONOMIC LOSSES; LIMITATIONS.]

Subdivision 1. [DEFINITION.] For purposes of this section, "noneconomic loss" means all nonpecuniary harm for which damages are recoverable, including but not limited to pain, disability, disfigurement, embarrassment, emotional distress, and loss of consortium.

Subd. 2. [LIMITATION.] In civil actions, whether based on contract or tort, the amount of damages for noneconomic losses may not exceed

\$500,000.”

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

The question was taken on the adoption of the amendment.

The roll was called, and there were yeas 33 and nays 32, as follows:

Those who voted in the affirmative were:

Adkins	Brataas	Isackson	Mehrkens	Storm
Anderson	Chmielewski	Johnson, D.E.	Olson	Stumpf
Belanger	Davis	Kamrath	Pehler	Taylor
Benson	DeCramer	Kronebusch	Peterson, D.L.	Waldorf
Berg	Frederick	Laidig	Ramstad	Wegscheid
Bernhagen	Frederickson	Langseth	Renneke	
Bertram	Gustafson	McQuaid	Samuelson	

Those who voted in the negative were:

Berglin	Johnson, D.J.	Luther	Peterson, R.W.	Solon
Dicklich	Jude	Merriam	Petty	Spear
Diessner	Knaak	Moe, D.M.	Pogemiller	Vega
Dieterich	Knutson	Moe, R.D.	Purfeerst	Willet
Frank	Kroening	Novak	Reichgott	
Freeman	Lantry	Peterson, C.C.	Schmitz	
Hughes	Lessard	Peterson, D.C.	Sieloff	

The motion prevailed. So the amendment was adopted.

Mr. Sieloff moved to amend the seventh Luther amendment to H.F. No. 1950, adopted by the Senate March 11, 1986, as follows:

Page 1, delete line 6 of the Luther amendment and insert:

“Page 50, line 24, before “*sickness*” insert “*accident and*””

The motion prevailed. So the amendment was adopted.

Mr. Luther moved that H.F. No. 1950 be laid on the table. The motion prevailed.

MOTIONS AND RESOLUTIONS - CONTINUED

Remaining on the Order of Business of Motions and Resolutions, Mr. Moe, R.D. moved that the Senate revert to the Orders of Business of Reports of Committees and Second Reading of Senate Bills. The motion prevailed.

REPORTS OF COMMITTEES

Mr. Moe, R.D. moved that the Committee Reports at the Desk be now adopted. The motion prevailed.

Mr. Moe, R.D. from the Committee on Rules and Administration, to which was referred under Rule 35, together with the committee report thereon,

S.F. No. 1732: A bill for an act relating to marriage dissolution; providing a presumption for joint legal custody; providing for custody mediation; regulating support determinations; amending Minnesota Statutes 1984, sections

518.17, subdivisions 2 and 5; 518.551, subdivision 5; Minnesota Statutes 1985 Supplement, section 518.64, subdivision 2; proposing coding for new law in Minnesota Statutes, chapter 518.

Reports the same back with the recommendation that the report from the Committee on Judiciary, shown in the Journal for March 7, 1986, be amended to read:

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

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

S.F. No. 2114: A bill for an act relating to unemployment compensation; providing that benefits resulting from acts of God are nonchargeable to an employer's account; amending Minnesota Statutes 1984, section 268.06, subdivisions 5 and 24.

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

SECOND READING OF SENATE BILLS

S.F. No. 2114 was read the second time.

MOTIONS AND RESOLUTIONS - CONTINUED

Remaining on the Order of Business of Motions and Resolutions, Mr. Moe, R.D. moved that the Senate proceed to the Order of Business of Introduction and First Reading of Senate Bills. The motion prevailed.

INTRODUCTION AND FIRST READING OF SENATE BILLS

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

Messrs. Benson; Peterson, R.W.; Merriam; Kroening and Mrs. Kronebusch introduced—

S.F. No. 2306: A bill for an act relating to natural resources; authorizing spending for acquiring and bettering public land and buildings for a fish hatchery; authorizing issuance of state bonds; appropriating money.

Referred to the Committee on Agriculture and Natural Resources.

Messrs. Isackson, Benson, Frederickson, Kamrath and Frederick introduced—

S.F. No. 2307: A bill for an act relating to taxation; property; extending the property eligible for agricultural homestead treatment in certain cases; amending Minnesota Statutes 1985 Supplement, section 273.124, subdivision 8.

Referred to the Committee on Taxes and Tax Laws.

Mr. Sieloff introduced—

S.F. No. 2308: A bill for an act relating to the Minnesota high school league; requiring due process on certain conference matters; establishing certain requirements for expulsion from a conference; amending Minnesota Statutes 1984, section 129.121, subdivision 1.

Referred to the Committee on Education.

Messrs. Stumpf; Bertram; Peterson, C.C. and Purfeerst introduced—

S.F. No. 2309: A resolution memorializing the President and Congress of the United States to investigate and take action to effect changes in the wheat grading and marketing process.

Referred to the Committee on Rules and Administration.

Mr. Merriam introduced—

S.F. No. 2310: A bill for an act relating to taxation; property; modifying the metropolitan revenue distribution system; phasing out certain exemptions; providing a variable contribution percentage; equalizing commercial-industrial assessed valuations; changing certain definitions; eliminating the administrative auditor's functions; amending Minnesota Statutes 1984, sections 473F.01; 473F.02, subdivision 12; 473F.06; 473F.07; 473F.08, subdivisions 2, 5, 6, 7a, and by adding a subdivision; 473F.09; 473F.13; Minnesota Statutes 1985 Supplement, section 473F.02, subdivision 3; repealing Minnesota Statutes 1984, sections 473F.02, subdivisions 6, 9, 11, 16, 18, 19, and 20; 473F.03; and 473F.12; and Minnesota Statutes 1985 Supplement, section 473F.02, subdivision 17.

Referred to the Committee on Taxes and Tax Laws.

Mr. Petty introduced—

S.F. No. 2311: A bill for an act relating to local government aids; modifying the distribution formula for cities; amending Minnesota Statutes 1984, section 477A.011, by adding subdivisions; Minnesota Statutes 1985 Supplement, sections 477A.011, subdivision 10; and 477A.013, subdivisions 2 and 3; repealing Minnesota Statutes 1985 Supplement, section 477A.011, subdivision 14.

Referred to the Committee on Local and Urban Government.

Mrs. Lantry introduced—

S.F. No. 2312: A bill for an act relating to taxation; property; providing for delayed assessment of valuation increases due to the rehabilitation of buildings; proposing coding for new law in Minnesota Statutes, chapter 273.

Referred to the Committee on Taxes and Tax Laws.

MOTIONS AND RESOLUTIONS - CONTINUED

Mr. Chmielewski moved that H.F. No. 2100 be taken from the table, given its second reading and placed on General Orders. The motion

prevailed.

H.F. No. 2100: A bill for an act relating to agriculture; state agricultural society; removing the time and geographical restrictions on the society's ability to impose certain restrictions on performers at the state fairgrounds; amending Minnesota Statutes 1985 Supplement, section 37.17, subdivision 1.

H.F. No. 2100 was read the second time.

Mr. Kamrath moved that H.F. No. 1776 be withdrawn from the Committee on Judiciary and placed on General Orders.

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.

The question recurred on the adoption of the motion of Mr. Kamrath.

The roll was called, and there were yeas 26 and nays 36, as follows:

Those who voted in the affirmative were:

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

Those who voted in the negative were:

Berglin	Frank	Merriam	Petty	Stumpf
Bertram	Freeman	Moe, D.M.	Pogemiller	Vega
Chmielewski	Jude	Moe, R.D.	Purfeerst	Waldorf
Davis	Kroening	Nelson	Reichgott	Willet
DeCramer	Langseth	Pehler	Samuelson	
Dicklich	Lantry	Peterson, C.C.	Schmitz	
Diessner	Lessard	Peterson, D.C.	Solon	
Dieterich	Luther	Peterson, R.W.	Spear	

The motion did not prevail.

MEMBERS EXCUSED

Mr. Dahl was excused from the Session of today from 10:30 a.m. to 10:00 p.m. Ms. Berglin was excused from the Session of today from 12:00 noon to 12:45 p.m. Mr. Knaak was excused from the Session of today from 12:00 noon to 12:45 p.m. Mr. Wegscheid was excused from the Session of today from 10:30 a.m. to 12:30 p.m. and from 5:20 to 7:30 p.m. Mr. Purfeerst was excused from the Session of today from 12:15 to 2:00 p.m. Mr. Gustafson was excused from the Session of today from 7:00 to 8:30 p.m.

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. Luther imposed a call of the Senate. The Sergeant at Arms was instructed to bring in the absent members.

SPECIAL ORDER

S.F. No. 1961: A bill for an act relating to the collection and dissemination of data; classifying data; proposing classifications of data as private, non-public, and protected nonpublic; clarifying issues relating to the administration of data; amending Minnesota Statutes 1984, sections 13.38, by adding a subdivision; 13.41, subdivision 4; 13.46, by adding a subdivision; 169.09, subdivision 13; 241.42, by adding subdivisions; and 259.27, by adding a subdivision; Minnesota Statutes 1985 Supplement, sections 13.03, subdivision 3; 13.04, subdivision 2; 13.39, subdivision 3; 13.46, subdivisions 2 and 7; 13.76; 13.82, subdivision 5; and 144.335, subdivision 2; proposing coding for new law in Minnesota Statutes, chapter 241; repealing Minnesota Statutes 1985 Supplement, section 13.89.

Ms. Berglin moved to amend S.F. No. 1961 as follows:

Page 1, after line 18, insert:

“Section 1. Minnesota Statutes 1984, section 8.31, subdivision 1, is amended to read:

Subdivision 1. [INVESTIGATE OFFENSES AGAINST THE PROVISIONS OF CERTAIN DESIGNATED SECTIONS; ASSIST IN ENFORCEMENT.] The attorney general shall investigate violations of the law of this state respecting unfair, discriminatory and other unlawful practices in business, commerce, or trade, and specifically, but not exclusively, the act against unfair discrimination and competition (sections 325D.01 to 325D.08), the unlawful trade practices act (sections 325D.09 to 325D.16), the automobile dealer's anticompetition act (sections 325D.17 to 325D.29), the antitrust act (sections 325D.49 to 325D.66), section 325F.67 and other laws against false or fraudulent advertising, the antidiscrimination acts contained in section 325D.67, the act against monopolization of food products (section 325D.68), *the medical assistance program (chapter 256B)*, and the prevention of consumer fraud act (sections 325F.68 to 325F.70) and assist in the enforcement of those laws as in this section provided.”

Page 10, after line 29, insert:

“Sec. 14. Minnesota Statutes 1985 Supplement, section 214.10, subdivision 8, is amended to read:

Subd. 8. [SPECIAL REQUIREMENTS FOR HEALTH-RELATED LICENSING BOARDS.] In addition to the provisions of this section that apply to all examining and licensing boards, the requirements in this subdivision apply to all health-related licensing boards, except the board of veterinary medicine.

(a) If the executive secretary or consulted board member determines that a communication received alleges a violation of statute or rule that involves

sexual contact with a patient or client, the communication shall be forwarded to the designee of the attorney general for an investigation of the facts alleged in the communication. If, after an investigation it is the opinion of the executive secretary or consulted board member that there is sufficient evidence to justify disciplinary action, the board shall conduct a disciplinary conference or hearing. If, after a hearing or disciplinary conference the board determines that misconduct involving sexual contact with a patient or client occurred, the board shall take disciplinary action. Notwithstanding subdivision 2, a board may not attempt to correct improper activities or redress grievances through education, conciliation, and persuasion, unless in the opinion of the executive secretary or consulted board member there is insufficient evidence to justify disciplinary action. The board may settle a case by stipulation prior to, or during, a hearing if the stipulation provides for disciplinary action.

(b) In addition to the information required under section 214.07, subdivision 1, each board shall include in its reports to the legislature summaries of each individual case that involved possible sexual contact with a patient or client. The summary must include a description of the alleged misconduct; the general results of the investigation; the nature of board activities relating to that case; the disposition of the case; and the reasons for board decisions concerning the disposition of the case. The information disclosed under this section must not include the name or specific identifying information about any person, agency, or organization.

(c) A board member who has a direct current or former financial connection or professional relationship to a person who is the subject of board disciplinary activities must not participate in board activities relating to that case.

(d) Each health-related licensing board shall establish procedures for exchanging information with other Minnesota state boards, agencies, and departments responsible for licensing health-related occupations, facilities, and programs, and for coordinating investigations involving matters within the jurisdiction of more than one licensing body. The procedures must provide for the forwarding to other licensing bodies of all information and evidence, including the results of investigations, that are relevant to matters within that licensing body's regulatory jurisdiction. 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.

(e) Each health-related licensing board shall establish procedures for exchanging information with other states regarding disciplinary actions against licensees. The procedures must provide for the collection of information from other states about disciplinary actions taken against persons who are licensed to practice in Minnesota or who have applied to be licensed in this state and the dissemination of information to other states regarding disciplinary actions taken in Minnesota.

(f) *Each health-related licensing board shall provide complaints or other information relevant to fraud or abuse of the medical assistance program to the attorney general. Information provided to the attorney general under this*

paragraph has the same classification under sections 13.01 to 13.88 in the hands of the attorney general as it has in the hands of the health-related licensing board until a civil or criminal proceeding related to the information is begun."

Page 11, after line 22, insert:

"Sec. 20. Minnesota Statutes 1984, section 256B.064, subdivision 1a, is amended to read:

Subd. 1a. [GROUNDS FOR MONETARY RECOVERY AND SANCTIONS AGAINST VENDORS.] The commissioner may seek monetary recovery and impose sanctions against vendors of medical care for any of the following: fraud, theft, or abuse in connection with the provision of medical care to recipients of public assistance; a pattern of presentment of false or duplicate claims or claims for services not medically necessary; a pattern of making false statements of material facts for the purpose of obtaining greater compensation than that to which the vendor is legally entitled; suspension or termination as a Medicare vendor; and refusal to grant the state agency or the attorney general access during regular business hours to examine all records necessary to disclose the extent of services provided to program recipients. No sanction may be imposed or monetary recovery obtained against any vendor of nursing home or convalescent care for providing services not medically necessary when the services provided were ordered by a licensed health professional not an employee of the vendor. The determination of services not medically necessary shall be made by the commissioner in consultation with a provider advisory committee appointed by the commissioner on the recommendation of appropriate professional organizations.

Sec. 21. Minnesota Statutes 1984, section 256B.12, is amended to read:

256B.12 [LEGAL REPRESENTATION.]

Subdivision 1. [ATTORNEY FOR ACTION.] The attorney general or the appropriate county attorney appearing at the direction of the attorney general shall be the attorney for the state agency, and the county attorney of the appropriate county shall be the attorney for the local agency in all matters pertaining hereto. To prosecute under this chapter or sections 609.466 and 609.52, subdivision 2, or to recover payments wrongfully made under this chapter, the attorney general or the appropriate county attorney, acting independently or at the direction of the attorney general may institute a criminal or civil action.

Subd. 2. [ACCESS TO RECORDS.] The attorney general and the appropriate county attorney shall be allowed access upon 24 hours notice to records of vendors, and records of recipients of medical assistance to which the commissioner has access under section 256B.27, subdivision 3, for the purpose of investigating whether a person or business entity has committed fraud or abuse of the medical assistance program or for use or potential use in a legal, administrative, or judicial proceeding.

Sec. 22. Minnesota Statutes 1984, section 256B.27, subdivision 3, is amended to read:

Subd. 3. The commissioner of human services and the attorney general, with the written consent of the recipient, on file with the local welfare

agency, shall be allowed access to all personal medical records of medical assistance recipients solely for the purposes of investigating whether or not: (a) a vendor of medical care has submitted a claim for reimbursement, a cost report or a rate application which the vendor knows to be false in whole or in part; or (b) the medical care was medically necessary. The vendor of medical care shall receive notification from the commissioner at least 24 hours before the commissioner gains access to such records. The determination of provision of services not medically necessary shall be made by the commissioner in consultation with an advisory committee of vendors as appointed by the commissioner on the recommendation of appropriate professional organizations. Notwithstanding any other law to the contrary, a vendor of medical care shall not be subject to any civil or criminal liability for providing access to medical records to the commissioner of human services pursuant to this section.

Sec. 23. Minnesota Statutes 1984, section 256B.27, subdivision 4, is amended to read:

Subd. 4. [AUTHORIZATION OF COMMISSIONER TO EXAMINE RECORDS.] A person determined to be eligible for medical assistance shall be deemed to have authorized the commissioner of human services *and the attorney general* in writing to examine all personal medical records developed while receiving medical assistance for the purpose of investigating whether or not a vendor has submitted a claim for reimbursement, a cost report or a rate application which the vendor knows to be false in whole or in part, or in order to determine whether or not the medical care provided was medically necessary.

Sec. 24. Minnesota Statutes 1984, section 256B.27, subdivision 5, is amended to read:

Subd. 5. Medical records obtained by the commissioner of human services *and the attorney general* pursuant to this section are private data, as defined in section 13.02, subdivision 12.

Sec. 25. Minnesota Statutes 1984, section 256B.30, is amended to read:

256B.30 [HEALTH CARE FACILITY REPORT.]

Every facility required to be licensed under the provisions of sections 144.50 to 144.58, or 144A.02, shall provide annually to the commissioner of human services the reports as may be required under law and under rules adopted by the commissioner of human services under the Administrative Procedure Act. The rules shall provide for the submission of a full and complete financial report of a facility's operations including:

- (1) An annual statement of income and expenditures;
- (2) A complete statement of fees and charges;
- (3) The names of all persons other than mortgage companies owning any interest in the facility including stockholders with an ownership interest of ten percent or more of the facility.

The financial reports and supporting data of the facility shall be available for inspection and audit by the commissioner of human services *and the attorney general*."

Page 11, line 35, delete "18" and insert "26"

Renumber the sections in sequence

Amend the title as follows:

Page 1, line 6, after the semicolon, insert "expanding the powers of the attorney general to obtain certain information and to investigate and prosecute fraud of the medical assistance program;"

Page 1, line 6, after "sections" insert "8.31, subdivision 1;"

Page 1, line 9, after the second semicolon, insert "256B.064, subdivision 1a; 256B.12; 256B.27, subdivisions 3, 4, and 5; 256B.30;"

Page 1, line 13, delete the second "and"

Page 1, line 14, after the semicolon, insert "and 214.10, subdivision 8;"

The motion prevailed. So the amendment was adopted.

Ms. Peterson, D.C. moved to amend S.F. No. 1961 as follows:

Page 11, after line 30, insert:

"Sec. 19. Minnesota Statutes 1985 Supplement, section 363.01, subdivision 35, is amended to read:

Subd. 35. [HUMAN RIGHTS INVESTIGATIVE DATA.] "*Human rights investigative data*" means written documents issued or gathered by the department or a local commission for the purpose of investigating and prosecuting alleged or suspected discrimination.

Sec. 20. Minnesota Statutes 1985 Supplement, section 363.01, subdivision 36, is amended to read:

Subd. 36. [CONFIDENTIAL, PRIVATE, AND PUBLIC DATA ON INDIVIDUALS AND PROTECTED NONPUBLIC DATA NOT ON INDIVIDUALS.] "*Confidential data on individuals*," "*private data on individuals*," "*public data on individuals*," "*protected nonpublic data not on individuals*," and any other terms concerning the availability of human rights investigative or mediation data have the meanings given them by section 13.02 of the Minnesota government data practices act.

Sec. 21. Minnesota Statutes 1984, section 363.01, is amended by adding a subdivision to read:

Subd. 39. [HUMAN RIGHTS MEDIATION DATA.] "*Human rights mediation data*" means data created by a local commission for the purpose of mediating alleged or suspected discrimination.

Sec. 22. Minnesota Statutes 1984, section 363.01, is amended by adding a subdivision to read:

Subd. 40. [CLOSED MEDIATION FILE.] "*Closed mediation file*" means a file containing human rights mediation data in which a report regarding the alleged or suspected discrimination has been made or issued by a local commission.

Sec. 23. Minnesota Statutes 1984, section 363.01, is amended by adding a subdivision to read:

Subd. 41. [OPEN MEDIATION FILE.] "Open mediation file" means a file containing human rights mediation data in which no report regarding the alleged or suspected discrimination has been made or issued by the local commission.

Sec. 24. Minnesota Statutes 1985 Supplement, section 363.061, subdivision 3, is amended to read:

Subd. 3. [ACCESS TO CLOSED FILES.] (a) Human rights investigative data on an individual contained in a closed case file is classified as private, with the exception of the following documents: the name and address of the charging party and respondent, factual basis of the allegations, and the statute under which the action is brought, the part of the summary of the investigation that does not contain identifying data on an individual other than the complainant or respondent, and the commissioner's memorandum determining whether probable cause has been shown.

(b) Human rights investigative data not on an individual contained in a closed case file is classified as nonpublic.

(c) Notwithstanding this subdivision, the commissioner may make human rights investigative data contained in a closed case file inaccessible to the charging party or the respondent in order to protect medical or other security interests of the parties or third persons.

(d) Notwithstanding this subdivision, the commissioner may make human rights investigative data contained in a closed case file accessible to a party by court order, subpoena, or written agreement of the parties.

Sec. 25. [363.062] [ACCESS TO CASE FILES.]

Subdivision 1. [GENERAL PROVISIONS.] Notwithstanding section 13.39, and except as provided in section 363.06, subdivisions 6 and 8, the availability of human rights mediation data to persons other than department employees is governed by this section.

Subd. 2. [ACCESS TO OPEN MEDIATION FILES.] (a) Human rights mediation data on an individual, contained in an open mediation file is classified as confidential, with the exception of the name and address of the charging party and respondent, the factual basis of the allegations, and the statute under which the action is brought. The name and address of the charging party and respondent, factual basis of the allegations, and the statute under which the action is brought are classified as public data unless the local commission or the commissioner determines that release of the data would be detrimental to the investigative and enforcement process.

(b) Human rights mediation data not on an individual contained in an open mediation file is classified as protected nonpublic data.

(c) Notwithstanding this subdivision, the local commission or the commissioner may make human rights mediation data contained in an open mediation file accessible to a party by court order, subpoena, or written agreement of the parties.

Subd. 3. [ACCESS TO CLOSED MEDIATION FILES.] (a) Human rights mediation data on an individual contained in a closed mediation file is classified as private, with the exception of the following documents: the

name and address of the charging party and respondent, the factual basis of the allegations, the statute under which the action is brought, and the part of the report that does not contain identifying data on an individual other than the complainant or respondent.

(b) Human rights mediation data not on an individual contained in a closed mediation file is classified as nonpublic.

(c) Notwithstanding this subdivision, the local commission or the commissioner may make human rights mediation data contained in a closed mediation file inaccessible to the charging party or the respondent in order to protect medical or other security interests of the parties or third persons.

(d) Notwithstanding this subdivision, the local commission or the commissioner may make human rights mediation data contained in a closed mediation file accessible to a party by court order, subpoena, or written agreement of the parties.

Sec. 26. Minnesota Statutes 1984, section 363.091, is amended to read:

363.091 [ENFORCEMENT.]

When a respondent fails or refuses to comply with a final decision of the department, the commissioner may file with the clerk of district court in the judicial district in which the hearing was held a petition requesting the court to order the respondent to comply with the order of the department. Thereupon the court shall issue an order to show cause directed to the respondent why an order directing compliance should not be issued. Notwithstanding the provisions of any law or rule of civil procedure to the contrary, the court shall examine at the hearing on the order to show cause all the evidence in the record and may amend the order of the department in any way the court deems just and equitable. If the panel or examiner administrative law judge has ordered an award of damages pursuant to section 363.071 and if the court sustains or modifies the award deems that an order directing compliance should be issued, it shall enter judgment on the order or modified order in the same manner as in the case of an order of the district court, as provided in section 546.27.

The jurisdiction conferred upon courts in sections 14.63 to 14.69 and 363.072 to review the validity of a final decision of the department in a contested case is exclusive.

Sec. 27. Minnesota Statutes 1984, section 363.14, subdivision 1, is amended to read:

Subdivision 1. [COURT ACTIONS, SUITS BY PRIVATE PARTIES, INTERVENTION.] A person may bring a civil action seeking redress for an unfair discriminatory practice:

(a) Directly to district court; or

(b) Notwithstanding the provisions of any law to the contrary, (1) within 45 days after the commissioner has dismissed a charge because it is frivolous or without merit, because the charging party has failed to provide required information, because the commissioner has determined that further use of department resources is not warranted, or because the commissioner has determined that there is no probable cause to credit the allegations contained

in a charge filed with the commissioner; (2) within 45 days after the commissioner has reaffirmed his determination of no probable cause if the charging party requested a reconsideration of the probable cause determination; or (3) after 45 days from the filing of a charge pursuant to section 363.06, subdivision 1 if a hearing has not been held pursuant to section 363.071 or if the commissioner has not entered into a conciliation agreement to which the charging party is a signator. The charging party shall notify the commissioner of his intention to bring a civil action, which shall be commenced within 90 days of giving the notice;

(e) ~~The commissioner may dismiss, without prejudice to the charging party, any case filed with the department on or before June 30, 1978. The commissioner shall notify a charging party by regular mail sent before August 1, 1981, that he has a right to bring a civil action pursuant to this section. Upon giving this notice the commissioner shall end all proceedings in the department relating to the charge. Notwithstanding any statutory period of limitation to the contrary, an individual notified pursuant to this clause may bring a civil action relating to his charge; provided that the action is filed on or before February 1, 1982.~~

Any person including a charging party bringing a civil action pursuant to this section shall mail by registered or certified mail a copy of the summons and complaint to the commissioner, and upon their receipt immediately upon commencement of the action. In cases in which a charge has been filed, the commissioner upon receiving the summons and complaint shall terminate all proceedings in the department relating to the charge. No charge shall be filed or reinstituted with the commissioner after a civil action relating to the same unfair discriminatory practice has been brought unless the civil action has been dismissed without prejudice.

Upon application by the complaining party to the district court at a special term and under circumstances the court deems just, the court may appoint an attorney for the person and may authorize the commencement of the action without payment of fees, costs, or security.

Upon timely application, the court may permit the department to intervene in a civil action brought pursuant to this section upon certification that the case is of general public importance.

Sec. 28. [363.15] [LIABILITY INSURANCE; INDEMNIFICATION.]

The governing body of any municipality or any local commission may purchase liability insurance for or indemnify the local commission, its members, agents, and employees against tort liability to the same extent and subject to the conditions and limitations under sections 466.06 and 466.07. A municipality shall indemnify and provide defense for members, agents, and employees of a local commission as provided in section 466.07, subdivision 1a."

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

The motion prevailed. So the amendment was adopted.

Ms. Reichgott moved to amend the Peterson, D.C. amendment to S.F. No. 1961, adopted by the Senate March 11, 1986, as follows:

Page 1, after line 36, insert:

"Sec. 24. Minnesota Statutes 1984, section 363.03, subdivision 8, is amended to read:

Subd. 8. [CREDIT; SEX DISCRIMINATION.] It is an unfair discriminatory practice:

(1) to discriminate in the extension of *personal or commercial credit* to a person, *or in the requirements for obtaining credit*, because of sex or marital status; *or*

(2) for a credit card issuer to refuse to issue a credit card to a woman under her current or former surname unless there is an intent to defraud or mislead, except that a credit card issuer may require that a woman requesting a card under a former surname open a separate account in that name. A credit card issuer may also require disclosure of any other names under which the credit card applicant may have a credit history."

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

Mr. Storm questioned whether the amendment was germane.

The Chair ruled that the amendment was not germane.

Mr. Peterson, R.W. moved to amend S.F. No. 1961 as follows:

Page 5, line 13, strike "economic security"

The motion prevailed. So the amendment was adopted.

Mrs. Brataas moved to amend S.F. No. 1961 as follows:

Pages 8 and 9, delete section 11

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

CALL OF THE SENATE

Mr. Merriam imposed a call of the Senate for the balance of the proceedings on S.F. No. 1961. The Sergeant at Arms was instructed to bring in the absent members.

The question recurred on the adoption of the Brataas amendment.

The roll was called, and there were yeas 25 and nays 30, as follows:

Those who voted in the affirmative were:

Belanger	Diessner	Johnson, D.E.	Laidig	Schmitz
Benson	Frederick	Kamrath	McQuaid	Sieloff
Bernhagen	Frederickson	Knaak	Olson	Solon
Brataas	Gustafson	Knutson	Peterson, D.L.	Storm
Chmielewski	Isackson	Kronebusch	Ramstad	Taylor

Those who voted in the negative were:

Adkins	DeCramer	Langseth	Pehler	Reichgott
Anderson	Dicklich	Lantry	Peterson, D.C.	Spear
Berg	Dieterich	Lessard	Peterson, R.W.	Stumpf
Berglin	Frank	Merriam	Petty	Vega
Bertram	Freeman	Moe, R.D.	Pogemiller	Waldorf
Davis	Jude	Novak	Purfeerst	Wegscheid

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

S.F. No. 1961 was read the third time, as amended, and placed on its final passage.

Mr. Peterson, R.W. moved that those not voting be excused from voting. The motion prevailed.

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

The roll was called, and there were yeas 43 and nays 15, as follows:

Those who voted in the affirmative were:

Adkins	Frank	Lessard	Peterson, D.C.	Spear
Berg	Frederickson	Luther	Peterson, D.L.	Storm
Berglin	Freeman	McQuaid	Peterson, R.W.	Stumpf
Bertram	Johnson, D.J.	Merriam	Petty	Taylor
Chmielewski	Jude	Moe, R.D.	Pogemiller	Vega
Davis	Knaak	Nelson	Ramstad	Waldorf
DeCramer	Kroening	Novak	Reichgott	Wegscheid
Dicklich	Langseth	Olson	Sieloff	
Dieterich	Lantry	Pehler	Solon	

Those who voted in the negative were:

Anderson	Brataas	Gustafson	Kamrath	Laidig
Benson	Diessner	Isackson	Knutson	Purfeerst
Bernhagen	Frederick	Johnson, D.E.	Kronebusch	Schmitz

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

SPECIAL ORDER

The question recurred on S.F. No. 2178.

S.F. No. 2178: A bill for an act relating to environment; prohibiting certain disposal of hazardous waste; regulating release of radionuclides into groundwater; amending Minnesota Statutes 1984, section 115.01, by adding subdivisions; proposing coding for new law in Minnesota Statutes, chapters 115; and 116C.

Mr. Davis moved to amend S. F. No. 2178 as follows:

Page 1, after line 20, insert:

“Sec. 3. Minnesota Statutes 1984, section 115.01, is amended by adding a subdivision to read:

Subd. 20. [DEPOSITORY.] “Depository” means: (a) a disposal facility or stabilization and containment facility for hazardous waste as defined in section 115A.03; and (b) a radioactive waste management facility as defined in section 116C.71, subdivision 7.”

Page 1, line 23, delete “20” and insert “21”

Page 2, line 5, delete “21” and insert “22”

Page 2, line 29, delete “disposal systems” and insert “depositories”

Page 2, lines 34 and 35, delete “disposal system” and insert “depository”

Page 3, line 3, delete “DISPOSAL SYSTEMS” and insert “DEPOSITORY”

Page 3, line 5, delete “disposal system” and insert “depository”

Page 3, line 8, delete "system" and insert "depository"

Page 3, line 9, delete "disposal system" and insert "depository"

Page 3, line 12, delete "DISPOSAL SYSTEM" and insert "DEPOSITORY"

Page 3, line 14, delete everything after "a"

Page 3, line 15, delete everything before "can" and insert "high level radioactive waste depository"

Page 3, lines 29 and 31, delete "disposal system" and insert "radioactive waste management facility"

Page 3, line 35, delete "Disposal"

Page 3, line 36, delete "systems" and insert "Radioactive waste management facilities" and delete "spent nuclear fuel or"

Page 4, line 2, delete "disposal system" and insert "facility"

Page 4, delete lines 13 to 17 and insert:

"Subd. 2. [DISPOSAL RESTRICTED.] *The location or construction of a radioactive waste management facility for high level radioactive waste is prohibited where the average annual radionuclide concentrations in ground water before construction of the facility exceed the limits in subdivision 1.*"

Page 4, line 19, delete "Disposal systems" and insert "Radioactive waste management facilities"

The motion prevailed: So the amendment was adopted.

S.F. No. 2178 was read the third time, as amended, and placed on its final passage.

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

The roll was called, and there were yeas 59 and nays 0, as follows:

Those who voted in the affirmative were:

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

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

SPECIAL ORDER

S.F. No. 1912: A bill for an act relating to intoxicating liquor; authorizing the city of Vadnais Heights to issue up to five additional on-sale licenses.

Mr. Dicklich moved to amend S.F. No. 1912 as follows:

Page 1, after line 11, insert:

"Sec. 2. Laws 1973, chapter 663, section 1, as amended by Laws 1974, chapter 335, section 1, is amended to read:

Section 1. [ST. LOUIS COUNTY; SEASONAL TERM ON-SALE LIQUOR LICENSES.] In addition to the number of licenses permitted pursuant to Minnesota Statutes, Section 340.11, Subdivision 10 by law, the county board of St. Louis county may issue ~~not more than ten~~ seasonal on-sale licenses for the sale of intoxicating liquor. The fee for such licenses, which shall be valid for a specified period of not to exceed six months, shall be fixed by the county board. Not more than one license shall be issued for any one premises during any consecutive 12 month period. All other provisions of Minnesota Statutes, ~~Section 340.11, Subdivision 10 governing the issuance of licenses and of chapter 340~~ 340A governing the issuance of licenses and the sale of intoxicating liquor shall apply to a license issued pursuant to this act.

Sec. 3. [LITTLE FALLS ON-SALE LICENSES.]

Notwithstanding Minnesota Statutes, section 340A.413, subdivision 1 or 3, or any other law, the city of Little Falls may issue one on-sale intoxicating liquor license in addition to the number now permitted by law.

Sec. 4. [AUTHORITY TO ISSUE LIQUOR LICENSES IN CROW WING COUNTY.]

The county of Crow Wing may issue not more than two on-sale licenses for the sale of intoxicating liquor on boats or watercraft on lakes in the county. All licenses shall permit the sale and consumption of alcoholic beverages only while the boat or watercraft is under way or moored or anchored off shore. The annual license fee shall be set by the county board in an amount not more than ten percent of the fee charged for a comparable license in the city of Breezy Point. Minnesota Statutes, chapter 340A, shall govern the issuance of licenses and the sale and purchase of alcoholic beverages under this section to the extent consistent with this section."

Page 1, line 15, after the period, insert "Section 2 is effective upon approval of the county board of St. Louis county and compliance with Minnesota Statutes, section 645.021. Section 3 is effective upon approval of the Little Falls city council and compliance with Minnesota Statutes, section 645.021. Section 4 is effective upon approval of the county board of Crow Wing county and compliance with Minnesota Statutes, section 645.021."

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

The motion prevailed. So the amendment was adopted.

Mrs. Brataas moved to amend S.F. No. 1912 as follows:

Page 1, after line 11, insert:

"Sec. 2. [MAYO CIVIC CENTER; ON-SALE LICENSE.]

The Rochester city council may issue an on-sale intoxicating liquor license to a person, firm, or corporation which holds a contract to provide concession services at the premises known and used as the Mayo civic center. The

license may authorize sales of intoxicating liquor only to persons attending events at the Mayo civic center, for consumption on the licensed premises only. The city council shall fix the fee for the license. All provisions of Minnesota Statutes, chapter 340A, governing intoxicating liquor are applicable to the license except those which by their nature are inapplicable.

Sec. 3. [REPEALER.]

Laws 1978, chapter 677, is repealed."

Page 1, line 15, after the period, insert "Sections 2 and 3 are effective on approval by the Rochester city council and compliance with Minnesota Statutes, section 645.021."

Renumber the sections in sequence

Amend the title as follows:

Page 1, line 4, after "licenses" insert "authorizing the city of Rochester to issue an on-sale license to a concessionaire at the Mayo civic center; repealing Laws 1978, chapter 677"

The motion prevailed. So the amendment was adopted.

Mr. Ramstad moved to amend S.F. No. 1912 as follows:

Page 1, after line 11, insert:

"Sec. 2. [LAKE MINNETONKA LIQUOR LICENSES.]

Subdivision 1. [DEFINITIONS.] (a) For the purposes of this section, except where the context requires otherwise, the terms defined in this section have the meanings given them.

(b) "District" means the Lake Minnetonka Conservation District, a public corporation and political subdivision of the state created pursuant to Laws 1967, chapter 907, as amended by Laws 1969, chapter 272.

(c) "Lake" means Lake Minnetonka, Hennepin and Carver counties, Minnesota.

Subd. 2. [POWERS.] The district is deemed a municipality within the meaning of the liquor act, Minnesota Statutes, chapter 340A, and, subject to limitations provided in this section, has, on the lake, all powers conferred on municipalities by chapter 340A.

Subd. 3. [LIQUOR LICENSES.] The powers of the district under the liquor act are subject to the following conditions and limitations:

(a) Only intoxicating on-sale licenses, nonintoxicating malt liquor on-sale licenses, and wine on-sale licenses as defined in chapter 340A may be issued by the district.

(b) No more than 14 on-sale intoxicating liquor licenses may be issued by the district exclusive of licenses described in Minnesota Statutes, section 340A.413, subdivision 4.

(c) Except as modified by this section, the district has the powers conferred by chapter 340A on a statutory city of the third class having a population of 10,000.

(d) The district may regulate bottle clubs as defined in chapter 340A in the

same manner and subject to the same conditions as is provided for cities in chapter 340A.

(e) The district may not establish, own, or operate a municipal liquor store, either on-sale or off-sale.

Subd. 4. [JURISDICTION.] The district has jurisdiction over the sale and possession of any nonintoxicating malt liquor or intoxicating liquor as defined in chapter 340A on or over the waters of the lake. Licenses granted by the district must authorize the on-sale of intoxicating liquor, nonintoxicating liquor or wine, or the approval of bottle club licenses issued by the commissioner of public safety only on boats or watercraft which are underway or moored or anchored offshore and may not authorize the on-sale of intoxicating liquor, nonintoxicating malt liquor or wine, or the operation of a bottle club on boats or watercraft while attached to land or to docks, which on-sale or operation of bottle clubs may be authorized only by license granted by the municipality having jurisdiction over the land to which the boat or dock is attached. The district may, however, impose further regulations or restrictions on any sale or possession of intoxicating liquor, nonintoxicating malt liquor or wine, or the operation of a bottle club on or over the waters of the lake."

Page 1, line 15, after the period, insert "Section 2 is effective upon approval by the board of the Lake Minnetonka conservation district and compliance with Minnesota Statutes, section 645.021."

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

The motion prevailed. So the amendment was adopted.

S.F. No. 1912 was then progressed.

RECESS

Mr. Moe, R.D. moved that the Senate do now recess until 9:30 p.m. The motion prevailed.

The hour of 9:30 p.m. having arrived, the President called the Senate to order.

MOTIONS AND RESOLUTIONS - CONTINUED

Remaining on the Order of Business of Motions and Resolutions, Mr. Moe, R.D. moved that the Senate revert to the Orders of Business of Messages From the House, First Reading of House Bills, Reports of Committees, Second Reading of Senate Bills and Second Reading of House Bills. The motion prevailed.

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. 1793: A bill for an act relating to local government; permitting an agreement to finance library construction in McGregor.

Senate File No. 1793 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned March 11, 1986

Mr. Chmielewski moved that the Senate do not concur in the amendments by the House to S.F. No. 1793, 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 to be 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 Senate File, AS AMENDED by the House, in which amendments the concurrence of the Senate is respectfully requested:

S.F. No. 1848: A bill for an act relating to costs and attorney fees; providing for recovery of costs and attorney fees by prevailing parties in civil actions and contested case proceedings involving the state; amending Minnesota Statutes 1984, section 14.62, by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapter 3.

Senate File No. 1848 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned March 11, 1986

CONCURRENCE AND REPASSAGE

Mr. Willet moved that the Senate concur in the amendments by the House to S.F. No. 1848 and that the bill be placed on its repassage as amended. The motion prevailed.

S.F. No. 1848 was read the third time, as amended by the House, and placed on its repassage.

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

The roll was called, and there were yeas 61 and nays 0, as follows:

Those who voted in the affirmative were:

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

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

MESSAGES FROM THE HOUSE - CONTINUED

Mr. President:

I have the honor to announce the passage by the House of the following House Files, herewith transmitted: H.F. Nos. 1677, 1767, 1838, 2256, 1947, 2089 and 2166.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted March 11, 1986

FIRST READING OF HOUSE BILLS

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

H.F. No. 1677: A bill for an act relating to libraries; changing the way the department of education provides certain information and other services; allowing mayors to appoint nonresidents to city library board under certain circumstances; updating maintenance of effort exceptions; requiring the commissioner of education to cooperatively develop a plan for automation of state agency libraries; amending Minnesota Statutes 1984, sections 121.496; 134.09, subdivision 1; 134.31, subdivisions 2 and 3; and 134.34, subdivision 5.

Mr. Davis moved that H.F. No. 1677 be laid on the table. The motion prevailed.

H.F. No. 1767: A bill for an act relating to taxation; imposing a tax on marijuana and controlled substances; imposing penalties; proposing coding for new law as Minnesota Statutes, chapter 297D.

Referred to the Committee on Taxes and Tax Laws.

H.F. No. 1838: A bill for an act relating to agriculture; defining certain kinds of milk; amending Minnesota Statutes 1984, section 32.391, subdivision 1.

Referred to the Committee on Rules and Administration for comparison with S.F. No. 1834.

H.F. No. 2256: A bill for an act relating to partnerships; revising the Uniform Limited Partnership Act; stating duties and powers of limited partners and partnerships; amending Minnesota Statutes 1984, sections 322A.01; 322A.02; 322A.05; 322A.11; 322A.12; 322A.14; 322A.15; 322A.18; 322A.24; 322A.26; 322A.27; 322A.31; 322A.32; 322A.39; 322A.40; 322A.41; 322A.45; 322A.47; 322A.49; 322A.52; 322A.58; 322A.63; and 322A.70.

Referred to the Committee on Rules and Administration for comparison with S.F. No. 2081, now on General Orders.

H.F. No. 1947: A bill for an act relating to solid waste; prohibiting the pollution control agency from issuing solid waste processing permits to certain facilities; amending Minnesota Statutes 1984, section 116.07, by adding a subdivision.

Referred to the Committee on Agriculture and Natural Resources.

H.F. No. 2089: A bill for an act relating to employment; regulating systems of sharing or pooling gratuities; defining service charges; amending Minnesota Statutes 1984, section 177.23, subdivision 9; Minnesota Statutes 1985 Supplement, section 177.24, subdivision 3.

Referred to the Committee on Rules and Administration for comparison with S.F. No. 2231.

H.F. No. 2166: A bill for an act relating to state government; ratifying certain labor agreements and compensation and salary plans; granting authority to the legislative commission on employee relations.

Mr. Nelson moved that H.F. No. 2166 be laid on the table. The motion prevailed.

REPORTS OF COMMITTEES

Mr. Moe, R.D. moved that the Committee Reports at the Desk be now adopted. The motion prevailed.

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

S.F. No. 2153: A bill for an act relating to agricultural finance; renaming the agricultural resource loan guaranty board; providing powers; authorizing the board to participate in loans; appropriating money; amending Minnesota Statutes 1984, section 41A.02, subdivisions 3 and 6; Minnesota Statutes 1985 Supplement, sections 41A.01; 41A.02, subdivision 11; and 41A.05, subdivisions 1 and 2; proposing coding for new law in Minnesota Statutes, chapter 41A; repealing Minnesota Statutes 1984, section 41A.06, subdivision 2.

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

Page 2, line 9, strike “; BOARD”

Page 2, line 16, strike “; PROJECT”

Page 3, delete sections 5 and 6

Page 4, lines 33 and 34, reinstate the stricken language

Page 6, delete section 11

Renumber the sections in sequence

Amend the title as follows:

Page 1, lines 3 and 4, delete “providing powers;”

Page 1, line 5, delete “appropriating money;”

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

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

S.F. No. 1832: A bill for an act relating to natural resources; allocating a

portion of cross country license fees issued by political subdivisions to be used for maintenance of cross country ski trails; amending Minnesota Statutes 1984, section 85.41, subdivision 5.

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

Page 1, line 16, after *"trail"* insert *"over one-half mile long"*

Page 1, line 16, after *"retain"* insert *"an additional"* and delete *"of the"* and insert *"from the annual and \$1 from the daily"* and delete everything after *"license"* and insert *"fees"*

Page 1, line 17, delete everything before the period and delete everything after *"The"* and insert *"additional retained money"*

Page 1, line 18, delete everything before *"must"*

Page 1, line 19, after *"maintenance"* insert *"and development"*

Page 1, line 20, after the first *"the"* insert *"issuing"*

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

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

S.F. No. 1599: A bill for an act relating to lakes; permitting the creation of the Pelican Lake conservation district in Otter Tail county with certain powers; providing penalties.

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

Delete everything after the enacting clause and insert:

"Section 1. [378.401] [CITATION.]

Sections 378.405 to 378.57 may be cited as the lake improvement district act.

Sec. 2. [378.405] [DEFINITIONS.]

Subdivision 1. [APPLICABILITY.] The definitions in this section apply to sections 378.405 to 378.57.

Subd. 2. [BOARD.] "Board" means county board.

Subd. 3. [COMMISSIONER.] "Commissioner" means the commissioner of natural resources.

Subd. 4. [DISTRICT.] "District" means a lake improvement district.

Subd. 5. [JOINT COUNTY AUTHORITY.] "Joint county authority" means a joint county authority formed by county boards under section 378.44.

Subd. 6. [PROPERTY OWNER.] "Property owner" means the owner of real property within the district or the buyer under contract for deed of property in the district.

Sec. 3. Minnesota Statutes 1984, section 378.41, is amended to read:

**378.41 [ESTABLISHMENT OF LAKE IMPROVEMENT DISTRICTS
ADMINISTRATION BY COMMISSIONER.]**

Subdivision 1. [PURPOSE.] (a) In furtherance of the policy declared in section 378.31, the commissioner of ~~natural resources~~ shall coordinate and supervise a local-state program for the establishment of lake improvement districts by counties and cities, *and towns* for lakes located within their boundaries based on state guidelines and regulations and compatible with all state, regional, and local plans where ~~such~~ *the* plans exist.

(b) In administration of this program the commissioner of natural resources shall consult with and obtain advice from other state agencies on those aspects of the program for which the agencies have specific legislative authority including but not limited to the department of health and the pollution control agency.

Subd. 2. [RULES.] The commissioner of ~~natural resources~~, before April 1, 1979, shall ~~promulgate~~ *adopt permanent and emergency rules pursuant to chapter 45 which* to provide guidelines, criteria and standards for establishment of lake improvement districts by counties ~~and cities~~.

Subd. 3. In order to finance the development and implementation of programs for water and related land resources management pursuant to sections 378.31 to 378.32, the county board of any county may designate areas within the county, including bodies of water and related land areas, as lake improvement districts.

Sec. 4. Minnesota Statutes 1984, section 378.42, is amended to read:

**378.42 [CREATION INITIATION AND ESTABLISHMENT BY
COUNTY BOARD.]**

Subdivision 1. [RESOLUTION OF INTENT.] The county board may ~~establish~~ *initiate the establishment of* a lake improvement district in a portion of the county ~~by adoption of an appropriate resolution under this section. The board must adopt a resolution declaring the intent of the board to establish a lake improvement district. The resolution shall must:~~

(1) specify the ~~territorial~~ boundaries of the *area* district, which ~~shall must~~ be as consistent as ~~possible~~ *practical* with natural hydrologic boundaries;

(2) ~~prescribe the type or types of water and related land resource management programs to be undertaken in the area; a statement of the means by which district;~~

(3) ~~state how the programs will be financed; and a designation of;~~

(4) ~~designate the county officer or agency who that~~ will be responsible for supervising the programs; *and*

(5) *set a date for a hearing on the resolution.*

Subd. 2. [HEARING.] ~~Before the adoption of such a resolution, The county board shall must hold a public hearing on the question of whether or not a lake improvement district shall should be established. Before the date set for the hearing, any interested person may file his objections to the formation of such the district with the county auditor. At the hearing, any inter-~~

ested person may offer objections, criticisms, or suggestions as to *about* the necessity of the proposed district as *outlined* and *to the question of whether his how the person's property will be benefited or affected* by the establishment of the district.

Subd. 3. [ESTABLISHMENT.] ~~Following th hearing, (a) The county board may establish a lake improvement district, by order, after making findings, if it appears to the board, after consideration of all testimony, determines that the:~~

(1) proposed district is necessary or that the public welfare will be promoted by the establishment of the district; ~~that the;~~

(2) property to be included in the district will be benefited by the establishment thereof, and that the establishing the district; and

(3) formation of the proposed district will not cause or contribute to long range environmental pollution, the county board, by formal order, shall declare its findings, shall establish the boundaries of the district and shall declare the district organized and give it a corporate name by which it shall be known prevent or eliminate public access, or adversely impact fish management.

(b) The order must state the board's findings and an order establishing the district must conform to section 7.

Sec. 5. Minnesota Statutes 1984, section 378.43, is amended to read:

378.43 [INITIATION BY PETITION FOR CREATION AND ESTABLISHMENT BY COUNTY BOARD.]

Subdivision 1. [PETITION.] A petition signed by 51 percent of the resident owners as defined in section 112.35, subdivision 21, within the proposed lake improvement district as specified in the petition shall be filed with the county clerk and addressed to the board requesting the establishment of a lake improvement district to develop and provide a program of water and related land resources management. Governmental subdivisions, other than the state or federal governments, owning lands within the proposed district are eligible to sign the petition.

The petition shall set forth the following:

(1) The name of the proposed district;

(2) The necessity for the proposed district so that the public health or public welfare will be promoted by the establishment of the district and that the lands to be included therein will be benefited by the establishment or accomplish any of the purposes of a lake improvement district;

(3) The boundaries of the territory, which shall be as consistent as possible with natural hydrologic boundaries, to be included in the proposed district;

(4) A map of the proposed district;

(5) The number of managers proposed for the district. The managers shall not be less than three nor more than five and be selected from a list of ten nominees; and

(6) A request for the organization of the district as proposed. (a) A lake

improvement district may be initiated by a petition to the county board. The petition must state:

- (1) the name of the proposed lake improvement district;
- (2) the necessity of the proposed district to promote public health or public welfare;
- (3) the benefits to property from the establishment of the lake improvement district;
- (4) the boundaries of the proposed district which must be as consistent as possible with natural hydrologic boundaries;
- (5) a map of the proposed district;
- (6) the number, from three to five, of directors proposed for the district; and
- (7) a request for establishing the district as proposed.

(b) A petition must be signed by 26 percent of the property owners within the proposed lake improvement district described in the petition. Governmental subdivisions, other than the state or federal governments, owning lands within the proposed district are eligible to sign the petition. The petition must be filed with the county auditor and addressed to the board requesting the board to establish a lake improvement district to develop and provide a program of water and related land resources management.

Subd. 2. [HEARING.] Upon receipt of the petition, and verification of the signatures thereon by the county auditor, the county board shall, within 30 days following verification, hold a public hearing on the question of whether or not the requested lake improvement district shall be established. After receiving the petition, the county auditor must verify the signatures and notify the county board. Within 30 days after being notified of the petition, the county board must hold a public hearing on whether the requested lake improvement district should be established.

Subd. 3. [ESTABLISHMENT.] Within 30 days following the holding of a public hearing the county board by resolution shall approve or disapprove the establishment of the requested lake improvement district and give it a corporate name by which it shall be known. A resolution approving the creation of the lake improvement district may contain modifications of the area's boundaries, functions, financing, or organization from what was set forth in the petition. Within 30 days after holding the public hearing, the county board shall, by order, establish or deny the establishment of the petitioned lake improvement district. An order establishing a district must conform to section 7 and may modify the petition relating to the district's boundaries, functions, financing, or organization.

Sec. 6. Minnesota Statutes 1984, section 378.44, is amended to read:

378.44 [JOINT ACTION ESTABLISHMENT OF A DISTRICT IN MORE THAN ONE COUNTY.]

Subdivision 1. [FORMATION OF JOINT COUNTY AUTHORITY.] Where the natural hydrologic boundaries of an area a proposed district extend into more than one county, the county boards of the counties affected

may form a joint county authority and establish and maintain a lake improvement district jointly or cooperatively as provided in section 471.59, ~~either on their own motion or pursuant to petition~~. The district may be initiated by the joint county authority in the same manner as a county board under section 378.42 or by petition to the affected county boards.

Subd. 2. [PETITION TO COMMISSIONER AFTER ESTABLISHMENT DENIAL.] If the county board of one or more of affected counties has denied establishing a lake improvement district affecting more than one county that is initiated by petition, a petition to establish a lake improvement district conforming to section 378.43, subdivision 1, may be submitted to the commissioner of natural resources and the district may be established as provided in subdivisions 2 to 4. The petition must include a statement describing the county boards that considered the petition and their action relating to the petition.

Subd. 3. [HEARING BY COMMISSIONER.] After receiving the petition, the commissioner must refer it to the county auditor. The auditor must verify the signatures within ten days and notify the commissioner. The commissioner may, within 30 days after being notified by the auditor, hold a public hearing on whether the requested lake improvement district should be established. The commissioner, in determining whether to hold a public hearing, shall examine all facts relating to the petition, including the reasons why the establishment of the district was denied. The county boards affected by the proposed district must pay for the expenses of the hearing.

Subd. 4. [ESTABLISHMENT BY COMMISSIONER.] The commissioner shall, by order, establish or deny the establishment of the petitioned lake improvement district by 30 days after the public hearing is held or, if a hearing is not held by 30 days after the auditor verifies the signatures on the petition. The commissioner shall, by order, establish the district if the commissioner determines that the establishment of the lake improvement district in the petition would promote the public welfare and public interest, and the district would preserve, protect, and enhance the use and enjoyment of lakes. The commissioner's order establishing the district may modify the district's boundaries, functions, financing, or organization. The order establishing the district must conform to section 7.

Subd. 5. [VOTING OF JOINT COUNTY AUTHORITY FOR DISTRICT ESTABLISHED BY THE COMMISSIONER.] If a lake improvement district has been established by order of the commissioner under section 7, voting by the joint county authority on actions of the lake improvement district shall be based on proportional representation for each county according to the proportion of the population of the lake improvement district residing within each county, and not on the basis of one vote per county or one vote per county board member unless each county or each board member represents substantially the same number of persons residing within the lake improvement district.

Sec. 7. [378.455] [ORDER ESTABLISHING DISTRICT.]

An order by the commissioner, county board, or joint county authority establishing a district must state the:

- (1) name of the district;

(2) boundaries of the district, which must be as consistent as practical with natural hydrologic boundaries;

(3) water and related land resources management programs and services to be undertaken;

(4) manner of financing programs and services; and

(5) number, qualifications, terms of office, removal, and filling of vacancies of the board of directors.

Sec. 8. Minnesota Statutes 1984, section 378.46, is amended to read:

378.46 [PUBLICATION AND EFFECTIVE DATE.]

Upon passage of a county board resolution authorizing the creation of a lake improvement district, the county board or boards shall cause the resolution to be published once in the official newspapers and filed with the secretary of state, the pollution control agency and the commissioner of natural resources. The lake improvement district shall be deemed established 30 days after publication or at such later date as may be specified in the resolution.

Subdivision 1. [PUBLICATION OF ESTABLISHMENT ORDER.] If a lake improvement district is established, the commissioner, county board, or joint county authority issuing the order establishing the district, shall publish the order once in the official newspapers of counties where the district is located and file the order with the secretary of state, the pollution control agency, and the commissioner of natural resources.

Subd. 2. [EFFECTIVE DATE.] Establishment of the lake improvement district is effective 30 days after publication or at a later date, if specified in the establishment order.

Sec. 9. Minnesota Statutes 1984, section 378.47, is amended to read:

378.47 [REFERENDUM ON ESTABLISHMENT.]

Subdivision 1. [PETITION.] Upon receipt of a petition signed by twenty-five percent of the resident owners within the territory of the lake improvement district specified in the resolution adopted pursuant to section 378.42 prior to the effective date of its creation as specified in section 378.46, the county board or boards shall hold the creation in abeyance pending referendum vote of all qualified voters and resident owners residing within the boundaries of the proposed lake improvement district. Twenty-five percent of the property owners within the lake improvement district established by the board or a joint county authority on its own initiative under section 378.42 may petition for a referendum on establishing the district before the effective date of its establishment. After receiving the petition, the county board or joint county authority must issue an order staying the establishment until a referendum vote is taken of all qualified voters and property owners within the proposed lake improvement district.

Subd. 2. [ELECTION.] The county board or boards joint county authority shall make arrangements for the holding of conduct a special election not less than 30 nor more than 90 days in July or August after receipt of such receiving the referendum petition. The special election must be held within the boundaries of the proposed lake improvement district specified in the reso-

lution adopted pursuant to section 378.42. If a general election will be held within the time specified, the vote on creation may be held as part of the general election. The county auditor shall administer the special election.

Subd. 3. [QUESTION SUBMITTED TO VOTERS.] The question to be submitted and voted upon by the qualified voters and ~~resident property~~ owners within ~~the territory of~~ the proposed lake improvement district ~~shall~~ must be ~~phrased stated~~ substantially as follows:

~~"Shall~~ Should a lake improvement district be established ~~in order to~~ provide (description of intended water and related land resources improvements) and financed by (description of revenue sources)?"

Subd. 4. [CERTIFICATION OF VOTE AND ESTABLISHMENT.] ~~Upon certification of the vote by~~ The county auditor, ~~must certify the vote on the question submitted.~~ If a majority of those voting on the question favor creation of establishing the proposed lake improvement district, the ~~lake improvement stay on establishing the district shall be deemed created is~~ lifted. If a majority of those voting on the question do not favor establishing the proposed lake improvement district, the establishment is denied.

Sec. 10. Minnesota Statutes 1984, section 378.51, is amended to read:

378.51 [BOARD OF DIRECTORS.]

Subdivision 1. [MEMBERSHIP.] After creation of a lake improvement district is established, the county board or ~~boards joint county authority~~ shall appoint persons to serve as a board of directors for the lake improvement district. The number, qualifications, terms of office, removal, and filling of vacancies of directors shall be as provided in the ~~resolution order~~ creating the board of directors. The initial board of directors ~~shall~~ must include persons owning property within the district, and at least one of ~~whom is~~ director must be a resident of the district.

Subd. 2. [COMPENSATION.] The directors shall serve without compensation but may be reimbursed for their actual expenses necessarily incurred in the performance of their duties in the manner provided for county employees.

Subd. 3. When directed by resolution of the county board or boards creating it, the board of directors shall have, exercise, and perform the powers and duties of the county board under section 378.31, except the power to acquire property by eminent domain.

Subd. 3a. [POWERS.] County boards, joint county authorities, statutory and home rule cities, and towns may, by order, delegate their powers that are specified in this section to the board of directors of a district to be exercised within the district. Programs and services undertaken must be consistent with the statewide water and related land resources plan prepared by the commissioner of natural resources, and with regional water and related resources plans. A body of water may not be improved by using authority granted under this section unless the public has access to some portion of the shoreline. County boards, joint county authorities, statutory and home rule cities, and towns may delegate their authority to a district board of directors to:

(1) acquire by gift or purchase an existing dam or control works that

affects the level of waters in the district;

(2) construct and operate water control structures that are approved by the commissioner of natural resources under section 105.42;

(3) undertake projects to change the course current or cross section of public waters that are approved by the commissioner of natural resources under section 105.42;

(4) acquire property, equipment, or other facilities, by gift or purchase to improve navigation;

(5) contract with a board of managers of a watershed district within the lake improvement district or the board of supervisors of a soil and water conservation district within the district for improvements under chapters 40 and 112;

(6) undertake research to determine the condition and development of the body of water and the water entering it and to transmit the studies to the pollution control agency and other interested authorities;

(7) develop and implement a comprehensive plan to eliminate water pollution;

(8) conduct a program of water improvement and conservation;

(9) construct a water, sewer, or water and sewer system in the manner provided by section 444.075 or other applicable laws;

(10) receive financial assistance from and participate in projects or enter into contracts with federal and state agencies for the study and treatment of pollution problems and related demonstration programs;

(11) make cooperative agreements with the United States or state government or other county or city to effectuate water and related land resource programs;

(12) maintain public beaches, public docks, and other public facilities for access to the body of water; and

(13) provide and finance a government service of the county or statutory or home rule city that is not provided throughout the county or, if the government service is provided, the service is at an increased level within the district.

Sec. 11. Minnesota Statutes 1984, section 378.52, is amended to read:

378.52 [FINANCING.]

Subdivision 1. [REVENUE.] The county board or boards in order to accomplish the purposes specified in the resolution creating a lake improvement district joint county authority may undertake projects of improvement consistent with these purposes and of the district. To finance projects and services of the district, the county board or county boards forming a joint county authority may:

(1) assess the costs of the projects upon benefited property within the district in the manner provided in under chapter 429; may;

(2) impose service charges on the users of lake improvement district serv-

ices within the ~~area, and may~~ district;

(3) levy an ad valorem tax solely on property situated within the lake improvement district, to be appropriated and expended solely on projects of special benefit to the ~~area, district;~~ or

(4) *may impose* any combination of service charges, special assessments, and taxes.

Subd. 2. [TAX EXCLUDED FROM OTHER LIMITATIONS.] The tax ~~provided for by under~~ subdivision 1 ~~shall not be subject to any is excluded from statutory limitation as to limitations on the amount of taxes levied and shall does not affect the amount or rate of taxes that may be levied for other county purposes. Such~~ A tax *under subdivision 1* may be in addition to any amounts levied ~~upon on~~ all taxable property in the county for the same or similar purposes.

Subd. 3. [BUDGETING FOR OPERATIONS.] ~~Upon adoption of its annual budget;~~ The county board or *county boards forming the joint county authority* shall include appropriate provisions *in its budget* for the operation ~~of the a~~ lake improvement district.

Sec. 12. Minnesota Statutes 1984, section 378.54, is amended to read:

378.54 [ENFORCEMENT OF ORDINANCES IN DISTRICT ESTABLISHED BY COMMISSIONER.]

~~Where If a lake improvement~~ district has been established by order of the commissioner ~~of natural resources~~ under section ~~378.45~~ 378.44, ordinances and regulations adopted by ~~the joint action of the affected county boards~~ county authority may be enforced in any part of the lake improvement district by personnel of any of the affected counties.

Sec. 13. Minnesota Statutes 1984, section 378.55, is amended to read:

378.55 [EXPANSION OF THE BOUNDARIES OF A LAKE IMPROVEMENT DISTRICT.]

A county board, on its own motion or pursuant to petition, may enlarge any existing lake improvement district pursuant to the procedures specified in *The boundary of a district may be enlarged by complying with the procedures to establish a district under sections 378.41 to 378.46.*

Sec. 14. Minnesota Statutes 1984, section 378.56, is amended to read:

378.56 [TERMINATION.]

Subdivision 1. [PETITION.] ~~Upon receipt of a Termination of a district may be initiated by petition requesting the termination of the district. The petition must be signed by 54 26 percent of the resident property owners within the territory of the lake improvement district requesting the termination of the lake improvement district; in a district within 30 days after receiving a petition. The county board or boards shall within 30 days after receipt of such a petition; by its order fix joint county authority must set a time and place; for a hearing thereon on terminating the district.~~

Subd. 1a. [FINDINGS AND ORDER.] If the board or ~~boards~~ joint county authority determine that the existence of the district is no longer in the public welfare or public interest and it is not needed to accomplish the purpose of

sections 378.31 to 378.57 the board or ~~boards~~ joint county authority shall ~~by its~~ make the findings and ~~order~~ terminate the district by order. Upon filing a certified copy of the findings and order with the secretary of state, pollution control agency, and commissioner of natural resources the district ~~shall~~ *cease is terminated and ceases* to be a political subdivision of the state.

Subd. 2. [TERMINATION OF FINANCING.] If a ~~lake improvement~~ district is terminated ~~pursuant to~~ under subdivision 1, ~~no~~ additional water and related land resource management programs ~~shall may not~~ be undertaken with money raised by a special tax within the district, and ~~no~~ additional special water and related land resource management taxes ~~shall may not~~ be levied within the district. ~~When~~ *If* money raised by past special tax levies within the district has been exhausted, further operation and maintenance of existing programs may be financed by appropriations from the general revenue fund of ~~the an~~ affected county.

Sec. 15. Minnesota Statutes 1984, section 378.57, is amended to read:

378.57 [ANNUAL MEETING OF DISTRICT.]

Subdivision 1. [TIME.] ~~Every lake improvement~~ A district ~~shall must~~ have an annual meeting. The first annual meeting shall be scheduled during the months of July or August, and ~~shall~~ be held annually ~~thereafter in that period~~ unless changed by vote of the previous annual meeting.

~~(4)~~ Subd. 2. [NOTICE.] The annual meeting shall be preceded by written notice mailed at least ten days in advance of the meeting to all ~~resident prop-~~erty owners within the district and to the pollution control agency and commissioner of natural resources.

~~(2)~~ Subd. 3. [AGENDA.] At the annual meeting *the district property owners present shall:*

~~(a)~~ (1) elect one or more directors to fill vacancies in the ~~district board- of directors;~~

~~(b)~~ (2) approve a budget for the ~~coming~~ fiscal year;

~~(c)~~ (3) approve or disapprove ~~all~~ proposed projects by the district having a cost to the district in excess of \$5,000; ~~by vote of the resident owners within the district.; and~~

~~(d)~~ (4) take up and consider ~~such~~ other business as comes before it.

Sec. 16. Minnesota Statutes 1984, section 459.20, is amended to read:

459.20 [AUTHORITY OVER PUBLIC WATERS.]

The governing body of any home rule charter or statutory city or town in the state has, with respect to any body of water situated wholly within its boundaries, all the powers to improve and regulate the use of such body of water as are conferred on county boards by sections 378.31 and 378.32, and to establish and administer lake improvement districts under sections 378.41 to 378.57. With respect to any body of water situated wholly within the contiguous boundaries of two or more home rule charter or statutory cities or towns or any combination thereof, the city councils and town boards may, under the provisions of section 471.59, jointly exercise such powers to improve and regulate the use of the body of water as are conferred on county

boards by sections 378.31 and 378.32, and to establish and administer lake improvement districts as provided under sections ~~378.41~~ 378.401 to 378.57, provided that, no home rule charter or statutory city or town may establish and administer a lake improvement district or exercise any of the powers granted in this section if a lake improvement district covering the same territory has been created by a county board under sections ~~378.41~~ 378.401 to 378.57. References in sections 378.31 to 378.35 and ~~378.41~~ 378.401 to 378.57 to the county board shall be construed to refer to the governing body of a home rule charter or statutory city or the board of supervisors of a town.

Sec. 17. [INSTRUCTION TO REVISOR.]

The revisor of statutes shall renumber section 378.57 as 378.545.

Sec. 18. [REPEALER.]

Minnesota Statutes 1984, sections 378.41, subdivision 3; 378.45; 378.51, subdivision 3; and 378.53 are repealed.

Sec. 19. [EFFECTIVE DATE.]

This act is effective the day after final enactment."

Delete the title and insert:

"A bill for an act relating to lakes; providing for the establishment of lake improvement districts; amending Minnesota Statutes 1984, sections 378.41; 378.42; 378.43; 378.44; 378.46; 378.47; 378.51; 378.52; 378.54; 378.55; 378.56; 378.57; and 459.20; proposing coding for new law in Minnesota Statutes, chapter 378; repealing Minnesota Statutes 1984, sections 378.41, subdivision 3; 378.45; 378.51, subdivision 3; and 378.53."

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

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

H.F. No. 2351: A bill for an act relating to state real estate; permitting the sale of the old Shakopee correctional facility to the local government units.

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

Page 1, line 15, delete everything after the period

Page 1, delete line 16

Page 1, line 17, delete everything before "Proceeds"

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. 1959: A bill for an act relating to the family farm security program; authorizing the issuance of general obligation bonds to finance certain payments to be made by the state on family farm loan guarantees; appropriating money; amending Minnesota Statutes 1984, sections 41.51; and 41.56, subdivision 4b; Minnesota Statutes 1985 Supplement, section 41.61;

and proposing coding for new law in Minnesota Statutes, chapter 41.

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

Page 6, delete lines 6 to 10 and insert:

“30, 1987. The participant’s interest in a family farm loan guarantee executed before the effective date of this act may be assigned to a new participant.”

Page 6, line 16, delete “to”

Page 6, delete lines 17 and 18 and insert “and is added to”

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. 1703: A bill for an act relating to commerce; regulating those who package soft drinks and other nonalcoholic beverages; increasing certain vending machine inspection fees; clarifying authority to inspect vending machines; clarifying rulemaking authority of commissioner of agriculture; amending Minnesota Statutes 1984, sections 28A.05; 28A.09, subdivision 1; 34.03; and 34.09; repealing Minnesota Statutes 1984, section 34.05.

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

Page 2, line 22, after the stricken “\$5” insert “at least”

Page 2, lines 29 to 36, reinstate the stricken language and delete the new language

Page 3, lines 1 to 8, reinstate the stricken language and delete the new language

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. 1868: A bill for an act relating to human services; streamlining food and nutrition programs in the state; establishing demonstration projects for one-stop food and commodities and to promote full participation in food assistance programs; establishing a coordinated nutrition data system; requiring the full expenditure of federal funds by agencies administering the special supplemental food program for women, infants, and children; requiring food stamps to be provided within 24 hours to persons eligible for expedited issuance; requiring the board on aging to pursue reimbursement of costs of home-delivered meals for the elderly; establishing a pilot school breakfast program; appropriating money; amending Minnesota Statutes 1984, sections 145.892, subdivision 2; 145.894; 256.975, by adding a subdivision; and 393.07, subdivision 10, and by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapters 124; 144; and 245.

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

Page 1, line 31, delete "*shall*" and insert "*may*"

Page 2, line 15, delete "*by*" and insert "*on each*"

Page 2, line 16, delete "*of each year*" and insert "*, beginning in 1988,*"

Page 3, line 10, delete "*fully*"

Page 3, line 11, delete "*all*" and insert "*at least 99 percent of*"

Page 3, line 20, before "*at*" insert "*in 1986, 1987, and 1988,*"

Page 5, line 3, after the period, insert "*In 1986, 1987, and 1988,*"

Pages 6 to 8, delete sections 10 and 11

Amend the title as follows:

Page 1, line 3, delete "*establishing*"

Page 1, delete line 4

Page 1, line 5, delete "*commodities and to promote*" and insert "*promotion of*"

Page 1, line 15, delete "*appropriating money;*"

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. 1734: A resolution relating to education; memorializing the President and Congress of the United States to take action to officially commend those who have assisted the educational process of this country by operating the country's school buses.

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

Mr. Moe, R.D. from the Committee on Rules and Administration, to which was referred under Rule 35, together with the committee report thereon,

S.F. No. 2041: A bill for an act relating to judges; providing for the manner of filling vacancies in the office of judge; proposing coding for new law as Minnesota Statutes, chapter 480B.

Reports the same back with the recommendation that the report from the Committee on Judiciary, shown in the Journal for March 7, 1986, be adopted, that committee recommendation being:

"the bill be amended and when so amended the bill do pass." Amendments adopted. Report adopted.

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

S.F. No. 1834: A bill for an act relating to agriculture; defining "*milk,*" "*skim milk,*" and "*lowfat milk*"; amending Minnesota Statutes 1984, section 32.391, subdivision 1, and by adding subdivisions.

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 32.391, subdivision 1, is amended to read:

Subdivision 1. [MILK; SKIM MILK; LOWFAT MILK; FLUID MILK PRODUCTS; GOAT MILK.] Milk is defined as the whole, fresh, clean lacteal secretion, practically free from colostrum, obtained by the complete milking of one or more healthy cows. When prepared for market in ~~fluid final package form for beverage use~~, milk shall contain not less than ~~8.25~~ 8.7 percent milk solids-not-fat and not less than 3.25 percent of milk fat. The name “milk”, unqualified, means cow’s milk.

Skim milk is milk from which milk fat has been removed so that its milk fat content is less than .25 percent. Skim milk in final package form for beverage use must contain at least nine percent milk solids-not-fat, for a total of at least 9.25 percent milk solids. Skim milk may be homogenized.

Lowfat milk is milk from which milk fat has been removed so that its milk fat content is either one or two percent, within limits of good manufacturing practices. Lowfat milk in final package form for beverage use must contain at least ten percent milk solids-not-fat. Lowfat milk may be homogenized.

Milk solids-not-fat may be added to fluid milk products to meet the above standards from the following sources: partially-skimmed milk, skim milk, concentrated partially-skimmed milk, concentrated skim milk, and nonfat dry milk, used alone or in any combination.

“Milk solids-not-fat” is the portion of a milk product that is not water and is not fat as determined by procedures outlined in Standard Methods For The Examination Of Dairy Products (fifteenth edition).

Fluid milk products shall be taken to mean and include cream, sour cream, half and half, reconstituted half and half, concentrated milk, concentrated milk products, skim milk, nonfat milk, chocolate flavored milk, chocolate flavored drink, chocolate flavored reconstituted milk, chocolate flavored reconstituted drink, buttermilk, cultured buttermilk, cultured milk, vitamin D milk, reconstituted or recombined milk, reconstituted cream, reconstituted skim milk, homogenized milk, and any other fluid milk product made by the addition of any substance to milk or to any of the above enumerated fluid milk products, when the same is declared to be a fluid milk product by rule or regulation promulgated by the commissioner.

Goat milk is a whole, fresh, clean lacteal secretion free from colostrum, obtained by the complete milking of one or more healthy goats.

Sec. 2. [EFFECTIVE DATE.]

This act is effective on the first day of the third month after the governor certifies by executive order published in the State Register that all states in which processors licensed in Minnesota sell milk have in effect content requirements identical to those in section 1.”

Amend the title as follows:

Page 1, line 4, delete “, and by adding” and insert a period

Page 1, delete line 5

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

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

S.F. No. 1967: A bill for an act relating to agriculture; declaring state policy relating to paddy-grown rice; regulating paddy-grown rice; providing land to be sold for wild rice production; licensing wild rice producers; authorizing rules; amending Minnesota Statutes 1985 Supplement, section 92.501, subdivisions 1 and 2; proposing coding for new law in Minnesota Statutes, chapter 30; repealing Minnesota Statutes 1984, section 30.49.

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

Pages 1 and 2, delete sections 1 to 5 and insert:

“Section 1. Minnesota Statutes 1985 Supplement, section 92.50, subdivision 1, is amended to read:

Subdivision 1. [LEASE TERMS.] The commissioner of natural resources may lease, at public or private vendue and at the prices and under the terms and conditions he or she may prescribe, any state-owned lands under his or her jurisdiction and control for the purpose of taking and removing sand, gravel, clay, rock, marl, peat, and black dirt, for storing ore, waste materials from mines, or rock and tailings from ore milling plants, for roads or railroads, or for any other uses consistent with the interests of the state. Except as otherwise provided in this subdivision, the term of the lease may not exceed ten years. Leases of lands for storage sites for ore, waste materials from mines, or rock and tailings from ore milling plants, for the removal of peat, or for the use of peat lands for agricultural purposes may not exceed a term of 25 years. Leases for the removal of peat must be approved by the executive council.

All leases must be subject to sale and leasing of the land for mineral purposes and contain a provision for cancellation *for just cause* at any time by the commissioner upon ~~three~~ *six months'* written notice. A longer notice period, not exceeding three years, may be provided in leases for storing ore, waste materials from mines or rock or tailings from ore milling plants. The commissioner may determine the terms and conditions, including the notice period, for cancellation of a lease for the removal of peat. Money received from leases under this section must be credited to the fund to which the land belongs.”

Page 3, delete section 8

Renumber the sections in sequence

Amend the title as follows:

Page 1, line 2, delete everything after the semicolon

Page 1, delete lines 3 to 5 and insert “state land lease provisions; wild rice production on state land;”

Page 1, line 6, delete “rules;”

Page 1, line 7, delete “section” and insert “sections 92.50, subdivision 1;

and" and delete "; proposing coding" and insert a period

Page 1, delete lines 8 and 9

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

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

S.F. No. 2101: A bill for an act relating to state lands; authorizing an exchange of certain state lands with the city of Thomson in Carlton county.

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

Page 1, line 8, before "The" insert "*Notwithstanding Minnesota Statutes, section 94.343, subdivision 9,*"

Page 3, after line 15, insert:

"Sec. 3. [SALE OF STATE LAND IN LAKE OF THE WOODS COUNTY.]

(a) The commissioner of natural resources may declare as surplus and offer for sale according to law the three parcels of land described in paragraph (b).

(b) The land that may be declared surplus and offered for sale is:

(1) the Southeast Quarter of the Southeast Quarter of Section 19, Township 160, Range 33, comprising of about 40 acres;

(2) the Southwest Quarter of the Southwest Quarter of Section 20, Township 160, Range 33, comprising of about 40 acres; and

(3) the Northwest Quarter of the Northwest Quarter of Section 29, Township 160, Range 33, comprising of about 40 acres.

Sec. 4. [EFFECTIVE DATE.]

Section 3 is effective the day after final enactment."

Amend the title as follows:

Page 1, line 4, after "county" insert "and sale of certain state land in Lake of the Woods county"

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

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

S.F. No. 1892: A bill for an act relating to game and fish; affording protection to crows and authorizing a season on crows; amending Minnesota Statutes 1984, sections 100.26, subdivision 2; and 100.27, by adding a subdivision.

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

Page 1, after line 14, insert:

"Sec. 2. Minnesota Statutes 1984, section 100.27, subdivision 6, is amended to read:

Subd. 6. All migratory game birds, ~~excepting Zenaida macroura~~, may be taken and possessed whenever and so long as the taking or possession is not prohibited by federal laws or regulations, subject, however, to all requirements of chapters 97 to 102, provided that it shall be unlawful to take any migratory game birds at any time in violation of any federal law or regulation. ~~Zenaida macroura shall not be taken and possessed in the state."~~

Page 1, line 17, after "Crow" insert "and mourning doves"

Page 1, after line 22, insert:

"Sec. 4. If S.F. No. 1526 is enacted during the 1986 regular session, article 1, section 2, subdivision 52, is amended to read:

Subd. 52. [UNPROTECTED BIRDS.] "Unprotected birds" means English sparrow, blackbird, ~~crow~~, starling, magpie, cormorant, common pigeon, and great horned owl.

Sec. 5. If S.F. No. 1526 is enacted during the 1986 regular session, article 2, section 59, is amended by adding a new section to read:

Sec. 60. [97B.713] [CROWS.]

The commissioner shall prescribe the open season for taking crows and the daily limit. A landowner or tenant may take crows causing damage to vegetation or agricultural crops at any time without limit.

Sec. 6. If S.F. No. 1526 is enacted during the 1986 regular session, article 2, section 63, subdivision 2, is amended to read:

Subd. 2. [~~TAKING MOURNING DOVES PROHIBITED~~.] Mourning doves may ~~not be taken in the state and possessed as prescribed by the commissioner.~~

Sec. 7. [EFFECTIVE DATE.]

This act is effective August 1, 1986, except if S.F. No. 1526 is enacted during the 1986 regular session, sections 1 to 3 are not effective."

Renumber the sections in sequence

Amend the title as follows:

Page 1, line 3, before the semicolon, insert "and mourning doves"

Page 1, line 5, after "100.27," insert "subdivision 6, and"

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

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

H.F. No. 1978: A bill for an act relating to crimes; limiting when felony charges brought for depriving another of custodial or parental rights may be dismissed; amending Minnesota Statutes 1984, section 609.26, subdivision 5; and Minnesota Statutes 1985 Supplement, section 609.26, subdivision 1.

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

Page 1, after line 9, insert:

"Section 1. Minnesota Statutes 1985 Supplement, section 2.722, subdivision 1, is amended to read:

Subdivision 1. [DESCRIPTION.] Effective July 1, 1959, the state is divided into ten judicial districts composed of the following named counties, respectively, in each of which districts judges shall be chosen as hereinafter specified:

1. Goodhue, Dakota, Carver, LeSueur, McLeod, Scott, and Sibley; ~~nine~~ 20 judges; and ~~four~~ permanent chambers shall be maintained in Red Wing, Hastings, Shakopee, Gaylord, LeCenter, West St. Paul, Chaska, Burnsville, South St. Paul, and Glencoe and one other shall be maintained at the place designated by the chief judge of the district;

2. Ramsey; ~~13~~ 24 judges; and permanent chambers shall be maintained in New Brighton, Roseville, Maplewood, North St. Paul, White Bear Lake, and St. Paul;

3. Wabasha, Winona, Houston, Rice, Olmsted, Dodge, Steele, Waseca, Freeborn, Mower, and Fillmore; 22 judges; and permanent chambers shall be maintained in Faribault, Albert Lea, Austin, Rochester, Wabasha, Caladonia, Mantorville, Preston, Owatonna, Waseca, and Winona;

4. Hennepin; ~~24~~ 41 judges; and permanent chambers shall be maintained in Minneapolis, and at other northern, southern, and western suburban locations throughout the county as a majority of the judges designate;

5. Blue Earth, Watonwan, Lyon, Redwood, Brown, Nicollet, Lincoln, Cottonwood, Murray, Nobles, Pipestone, Rock, Faribault, Martin, and Jackson; ~~five~~ 21 judges; and permanent chambers shall be maintained in Marshall, Windom, Fairmont, New Ulm, St. Peter, St. James, Blue Earth, Jackson, Pipestone, Worthington, Slayton, Redwood Falls, and Mankato;

6. Carlton, St. Louis, Lake, and Cook; ~~six~~ 14 judges; and permanent chambers shall be maintained in Duluth, Virginia, Hibbing, Two Harbors, Grand Marais, and Carlton;

7. Benton, Douglas, Mille Lacs, Morrison, Otter Tail, Stearns, Todd, Clay, Becker, and Wadena; 19 judges; and permanent chambers shall be maintained in Moorhead, Fergus Falls, Little Falls, Foley, Alexandria, Milaca, Long Prairie, Detroit Lakes, Wadena, and St. Cloud;

8. Chippewa, Kandiyohi, Lac qui Parle, Meeker, Renville, Swift, Yellow Medicine, Big Stone, Grant, Pope, Stevens, Traverse, and Wilkin; ~~three~~ 13 judges; and permanent chambers shall be maintained in Morris, Montevideo, Litchfield, Olivia, Wheaton, Glenwood, Breckenridge, Benson, Granite Falls, and Willmar;

9. Norman, Polk, Marshall, Kittson, Red Lake, Roseau, Mahnomen, Pennington, Aitkin, Itasca, Crow Wing, Hubbard, Beltrami, Lake of the Woods, Clearwater, Cass and Koochiching; ~~six~~ 20 judges; and permanent chambers shall be maintained in Crookston, Thief River Falls, Bemidji, Brainerd, Grand Rapids, Ada, Warren, Hallock, Red Lake Falls, Roseau, Mahnomen, Aitkin, Park Rapids, Baudette, Bagley, Walker, and International Falls;

10. Anoka, Isanti, Wright, Sherburne, Kanabec, Pine, Chisago, and Washington; 24 judges; and permanent chambers shall be maintained in

Anoka, Stillwater, Buffalo, Elk River, Mora, Cambridge, Center City, Pine City, and other places designated by the chief judge of the district.

All permanent chambers designated in this section are subject to section 480.22.

Sec. 2. [480B.01] [COMMITTEE ON JUDICIAL VACANCIES.]

Subdivision 1. [JUDICIAL VACANCIES.] When a judge of the court of appeals, or a judge of the district, county, or county municipal court dies, resigns, retires, or is removed during his term of office, the resulting vacancy must be filled by the governor in the manner provided in this section.

Subd. 2. [COMMITTEE ESTABLISHED; MEMBERS.] A committee on judicial vacancies is established. It shall be composed of permanent members chosen as follows:

(1) four members appointed by the governor to a four-year term, which shall end on the same day the governor's term of office ends;

(2) two members appointed by a majority of the judges of the supreme court to a four-year term, which shall end on the same day the governor's term of office ends;

(3) one member appointed by the speaker of the house and one member appointed by the subcommittee on committees of the committee on rules and administration of the senate, each to a four-year term, which shall end on the same day the governor's term of office ends;

(4) one attorney residing in each judicial district, appointed by the governor after consultation with attorney associations in the judicial district and with attorney organizations that represent minorities or women in the judicial district to a four-year term, which shall end on the same day the governor's term of office ends; and

(5) one district, county, or county municipal judge elected by the district, county, and county municipal judges in each district to a four-year term, which shall end on the same day the governor's term of office ends.

Individuals appointed or elected pursuant to clauses (4) and (5) shall be permanent members of the committee but shall participate in committee meetings and deliberations only when the committee is considering applicants to fill a vacancy on the district, county, or county municipal court in the judicial district from which those individuals were appointed or elected.

A member appointed pursuant to clause (1) or (4) serves at the pleasure of the governor.

If a vacancy occurs on the committee by reason of the death or resignation of any permanent member or by the removal of a member appointed pursuant to clauses (1) to (5), the appointing or electing authority shall appoint or elect an individual to fill the vacancy for the remainder of the unexpired term.

Each time a vacancy occurs on the district, county, or county municipal court, in addition to the permanent members provided in clauses (1) to (5), two residents of the judicial district shall be appointed by the governor as special members of the committee and shall serve only while the vacancy in that district is being filled. Each time a vacancy occurs in the court of

appeals, in addition to the permanent members provided in clauses (1) and (2), two residents of the state shall be appointed by the governor as special members of the committee and shall serve only while that vacancy is being filled.

The appointing or electing authority shall ensure that the permanent members of the committee include women or members of minority races.

The governor shall designate the chairman of each committee, who shall call meetings and preside at them. A quorum of the committee is seven members when considering district, county, or county municipal court vacancies and six members when considering court of appeals vacancies.

Both permanent and special members of the committee who would otherwise be eligible to hold judicial office must not be considered or appointed to fill any judicial vacancy while they are members of the committee or for six months following the end of their membership on the committee.

Subd. 3. [RECRUITMENT PROCESS.] No later than 60 days after the appointment or election of all of the permanent committee members, the committee shall prepare and make available to the public an outline of the process the committee will follow in recruiting nominees to fill judicial vacancies.

Subd. 4. [COMMITTEE MEETINGS; NOTICE; TIME.] Within ten days after a judicial vacancy occurs or after the governor has been notified that a vacancy will occur on a specified date, the governor shall notify the chairman of the committee on judicial vacancies. The governor shall advise the chairman of the names of the persons appointed to serve as special members of the committee on judicial vacancies for the purpose of considering candidates to fill that vacancy or anticipated vacancy. The chairman shall notify the appropriate permanent and special members of the committee that a vacancy has occurred or is anticipated and shall call a meeting of the committee to consider the candidates for the vacancy. The meeting shall be held not less than 30 days nor more than 42 days after the governor provides notification of the vacancy.

Subd. 5. [NOTICE TO THE PUBLIC.] Upon receiving notice from the governor that a judicial vacancy has occurred or will occur at a definite future date, the chairman shall provide notice of the following information:

- (1) the office which is or will be vacant;
- (2) that applications from qualified persons or on behalf of qualified persons are being accepted by the committee;
- (3) that application forms may be obtained from the committee at a specified address; and
- (4) that application forms must be returned to the committee by a specified date, which shall be three days before the first meeting of the committee called by the chairman to consider candidates.

If the vacancy has occurred or will occur on the court of appeals, the notice shall be provided to the attorney associations in each judicial district and to at least one newspaper of general circulation in each county in the state. If the vacancy has occurred or will occur in the district, county, or county municipal court, notice shall be provided to attorney associations in the judicial district where the vacancy has occurred or will occur and to at

least one newspaper of general circulation in each county in the district.

Subd. 6. [CANDIDATE EVALUATION.] In the case of all vacancies, the committee shall evaluate the extent to which candidates possess the following qualifications for judicial office: integrity, maturity, health, judicial temperament, diligence, legal knowledge, ability and experience, and community service. The committee shall give consideration to female candidates and to male candidates who are Blacks, Hispanics, Asians, or American Indians. If the vacancy has occurred or will occur in the district, county, or county municipal court, the committee shall solicit, in writing, recommendations from attorney associations in the judicial district and from those organizations that represent minority and women attorneys in the judicial district who have requested solicitation where the vacancy has occurred or will occur. Recommendations may be disregarded if not submitted in writing within 30 days after the attorney association or organization has received the request for recommendation. The committee may establish procedures for evaluating candidates.

Subd. 7. [NOMINEES TO GOVERNOR.] Within 30 days after the first meeting of the committee to consider candidates, the committee shall recommend to the governor no fewer than three and no more than five nominees for each judicial vacancy. The nominees must not be ranked in any preference order. The names of the nominees must be made public. The governor may fill the vacancy from the nominees recommended by the committee within 15 days after receiving the recommendations unless he or she rejects all the nominees and requests new nominees from the committee in writing:

Sec. 3. Minnesota Statutes 1984, section 484.01, is amended to read:

484.01 [JURISDICTION.]

There is one trial court, which is the district court.

The district courts shall have court has original jurisdiction in all civil actions within their respective districts its judicial district, in all cases of crime committed or triable therein in the district, in all juvenile proceedings, in all probate proceedings, including the administration of estates of deceased persons and trust estates and guardianship and incompetency proceedings, in all special proceedings not exclusively cognizable by some other court or tribunal, and in all other cases wherein such in which the jurisdiction is especially conferred upon them it by law. They shall it also have has appellate jurisdiction in every case in which an appeal thereto to it is allowed by law from any other court, officer, or body.

Sec. 4. Minnesota Statutes 1984, section 484.545, subdivision 1, is amended to read:

Subdivision 1. The district judges regularly assigned to hold court in each judicial district except for the second, fourth, and tenth judicial districts may by orders filed with the clerk of court and county auditor of each county in the district appoint a competent law clerk for every two district court judges of in the judicial district as of July 31, 1987. The district judges regularly assigned to hold court in the first and tenth judicial districts may by orders filed with the clerk of court and county auditor of each county in the district appoint a competent law clerk for each district court judge of in the district as of July 31, 1987. No new law clerk positions may be created in a district after July

31, 1987, but any vacancies in those positions which existed as of July 31, 1987, may be filled. The district court administrator in each district shall make assignments of all law clerks in that district.

The judicial advisory service shall continue to be available to all trial court judges to assist them with research, information about current legal developments, library services, and legal forms.

Sec. 5. Minnesota Statutes 1984, section 484.69, subdivision 1, is amended to read:

Subdivision 1. [ELECTION; TERM; REMOVAL.] *By July 1, 1977, the judges of the district, county, county municipal and probate courts resident in each of the judicial districts shall meet and elect from among their number a single chief judge and an assistant chief judge. The chief justice shall appoint the chief judge and assistant chief judge in each of the judicial districts from a list of three names for each position submitted by the judges of the district. The chief judge and the assistant chief judge shall serve a term of two three years beginning July 1 of the year in which they are elected. No judge may serve as chief judge or assistant chief judge for more than two consecutive two year three-year terms.*

The seniority of judges and rotation of the position of chief judge or assistant chief judge shall not be criteria for the election appointment of the chief judge or the assistant chief judge.

A chief judge or assistant chief judge may be removed for cause as chief judge or assistant chief judge by the chief justice of the supreme court, or by a majority of the judges of the judicial district.

Sec. 6. Minnesota Statutes 1984, section 484.70, subdivision 1, is amended to read:

Subdivision 1. [APPOINTMENT.] *The chief judge of the judicial district may appoint one or more suitable persons to act as referees. Referees shall hold office at the pleasure of the judges of the district court and shall be learned in the law, except that persons holding the office of referee on January 1, 1983, may continue to serve under the terms and conditions of their appointment. All referees are subject to the administrative authority and assignment power of the chief judge of the district as provided in section 484.69, subdivision 3, and are not limited to assignment to family, probate, juvenile or special term court. Part time referees holding office in the second judicial district pursuant to this subdivision shall cease to hold office on July 31, 1984. No new district court referee positions may be created after July 31, 1987, but any vacancies in referee positions which existed as of July 31, 1987, may be filled.*

Sec. 7. [484.74] [REORGANIZATION PLAN.]

The judges in each judicial district, in consultation with the district administrator, shall prepare a reorganization plan establishing an administrative structure to implement the unified trial court.

The reorganization plan required by this section shall set forth the criteria to be considered in the assignment of judges to particular cases or categories of cases.

The plan shall be filed with the state court administrator by August 1,

1987. The state court administrator shall establish a reorganization plan for any judicial district that does not file its plan by the required date. Organization plans filed with the secretary of state pursuant to Minnesota Statutes, section 487.191, may be filed with the state court administrator to meet this requirement.

Sec. 8. [487.001] [COUNTY AND PROBATE COURT ABOLISHED.]

The probate court, which is also the county court, is abolished. The jurisdiction of the county and probate court is transferred to the district court. The judges of the county and probate court who are learned in the law are judges of the district court in which the county and probate court on which they served was located and shall continue to serve the term to which they were appointed or last elected. The county court judge not learned in the law serving on July 31, 1987, is an associate judge of the district court in the judicial district in which the county court where he served was located and shall continue to serve the term to which he was last elected. The associate judge is subject to section 487.04. Upon completion of the term to which they were serving on August 1, 1987, all judges are eligible for reelection as incumbent judges of the district court in the judicial district in which the county and probate court on which they served was located. The cases pending, the records, and the individuals employed by or serving in the county and probate courts on August 1, 1987, shall be transferred to the district court in the judicial district in which the county and probate court was located. No new courtroom bailiff or clerk positions may be created after July 31, 1987, but any vacancies in those positions which existed as of July 31, 1987, may be filled.

Sec. 9. [488A.001] [MUNICIPAL AND CONCILIATION COURTS MERGER WITH DISTRICT COURT.]

The municipal and conciliation courts of Ramsey and Hennepin counties are merged with the district courts in the second and fourth judicial districts respectively. The judges of the municipal courts of Ramsey and Hennepin counties are district judges of the second and fourth judicial districts respectively and shall continue to serve the term to which they were appointed or last elected. Upon completion of the term which they were serving on August 1, 1987, they are eligible for reelection as incumbent judges of the district court of the second and fourth judicial districts respectively. The cases pending, the records, and the individuals employed by or serving in the municipal and conciliation courts of Ramsey and Hennepin counties on August 1, 1987, are transferred to the district courts in the second and fourth judicial districts respectively. No new courtroom bailiff or clerk positions may be created after July 31, 1987, but any vacancies in those positions which existed as of July 31, 1987, may be filled.

Sec. 10. [INSTRUCTIONS TO THE STATE COURT ADMINISTRATOR.]

On or before August 1, 1987, the state court administrator shall present to the chairmen of the committees on the judiciary in the house and senate a report of the statutes in effect prior to the effective date of sections 1, 3 to 6, 8, 9, and 13 which concern the jurisdiction, administration, procedure, judges, and personnel of the district, probate, county, and municipal courts and which require amendment in order to implement the purposes of sections

1, 3 to 6, 8, 9, and 13. *The state court administrator shall consult with the revisor of statutes in the preparation of this report which must be in the form of a bill draft.*"

Page 1, line 26, delete "*contrary to*" and insert "*in violation of*"

Page 2, lines 13 and 17, reinstate the stricken language and delete the new language

Page 2, line 24, delete everything before "*clause*" and after "*(a)*" insert "*does not apply*"

Page 2, line 25, delete "*only after*" and insert "*as a result of*"

Page 2, line 26, delete everything after "*authorities*" and insert a period

Page 2, delete lines 27 and 28 and insert:

"Sec. 13. [REPEALER.]

Minnesota Statutes 1984, section 487.191, is repealed.

Sec. 14. [EFFECTIVE DATE.]

(a) Section 2 is effective August 1, 1986, for judicial vacancies occurring on and after January 1, 1987. The initial permanent members of the committee shall be appointed or elected to terms which shall end on the first Monday of January 1988.

(b) Sections 1, 3 to 6, 8, 9, and 13 are effective August 1, 1987. Sections 7 and 10 are effective the day following enactment."

Renumber the sections in sequence

Delete the title and insert:

"A bill for an act relating to courts; abolishing the county and probate court; transferring the jurisdiction, cases, records, and employees of that court to the district court; merging the municipal and conciliation courts with the district court in the second and fourth judicial districts; transferring the jurisdiction, cases, records, and employees of those courts to the district court; providing that municipal, probate and county judges learned in the law are district judges; providing that the county court judge not learned in the law is an associate judge; limiting the creation of additional referee, law clerk, courtroom bailiff, and courtroom deputy clerk positions; requiring each judicial district to prepare a reorganization plan; providing for the manner of filling judicial vacancies; limiting when felony charges brought for depriving another of custodial or parental rights may be dismissed; amending Minnesota Statutes 1984, sections 484.01; 484.545, subdivision 1; 484.69, subdivision 1; 484.70, subdivision 1; 609.26, subdivision 5; Minnesota Statutes 1985 Supplement, section 2.722, subdivision 1; and 609.26, subdivision 1; proposing coding for new law in Minnesota Statutes, chapters 484, 487, and 488A; proposing coding for new law as Minnesota Statutes, chapter 480B; repealing Minnesota Statutes 1984, section 487.191."

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

SECOND READING OF SENATE BILLS

S.F. Nos. 2153, 1832, 1599, 1959, 1703, 1868, 1734, 2041, 1834, 1967,

2101 and 1892 were read the second time.

SECOND READING OF HOUSE BILLS

H.F. Nos. 2351 and 1978 were read the second time.

SPECIAL ORDER

S.F. No. 2114: A bill for an act relating to unemployment compensation; providing that benefits resulting from acts of God are nonchargeable to an employer's account; amending Minnesota Statutes 1984, section 268.06, subdivisions 5 and 24.

SUSPENSION OF RULES

Mr. Chmielewski moved that an urgency be declared within the meaning of Article IV, Section 19, of the Constitution of Minnesota, with respect to S.F. No. 2114 and that the rules of the Senate be so far suspended as to give S.F. No. 2114, now on General Orders, its third reading and place it on its final passage. The motion prevailed.

Mr. Moe, R.D. moved that S.F. No. 2114 be laid on the table. The motion prevailed.

Mr. Moe, R.D. moved that S.F. No. 2114 be taken from the table. The motion prevailed.

Mr. Chmielewski moved to amend S.F. No. 2114 as follows:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 1985 Supplement, section 268.0111, is amended by adding a subdivision to read:

Subd. 3a. [DEPARTMENT.] "Department" means the department of jobs and training.

Sec. 2. Minnesota Statutes 1984, section 268.04, subdivision 2, is amended to read:

Subd. 2. "Base period" means the period of 52 calendar weeks immediately preceding the first day of an individual's benefit year. However, if a claimant received weekly worker's compensation for temporary total disability under the provisions of chapter 176 or under a similar law of the United States for more than seven weeks within the base period; or if a claimant, whose own serious illness caused a loss of credit weeks within the base period, received compensation due to the illness from some other source or under a law of this state other than chapter 176 or under a similar law of the United States for more than seven weeks within the base period, the claimant's base period shall be lengthened by the same number of weeks, but not to exceed 52 weeks, for which the claimant received the payments. No extended base period shall include wage credits upon which benefits were established and paid with respect to a prior valid claim first four of the last five completed calendar quarters immediately preceding the first day of an individual's benefit year; except that, if during the base period an individual received workers' compensation for temporary disability under chapter 176 or a similar law of the United States, or if an individual whose own serious

illness caused a loss of work for which the individual received compensation due to the illness from some other source or under a law of this state other than chapter 176 or a similar law of the United States, the individual's base period shall be lengthened to the extent stated as follows:

(1) if an individual was compensated, as described above, for a loss of work of seven to 13 weeks, the original base period shall be extended to include one calendar quarter preceding the original base period; or

(2) if an individual was compensated, as described above, for a loss of work of 14 to 26 weeks, the original base period shall be extended to include two calendar quarters preceding the original base period; or

(3) if an individual was compensated, as described above, for a loss of work from 27 to 39 weeks, the original base period shall be extended to include the first three calendar quarters preceding the original base period; or

(4) if an individual was compensated, as described above, for a loss of work from 40 to 52 weeks, the original base period shall be extended to include the first four quarters preceding the original base period.

In no instance shall the base period be extended to include more than four additional calendar quarters.

No extended base period shall include wage credits upon which a claim was established and benefits were paid with respect to that valid claim.

Sec. 3. Minnesota Statutes 1984, section 268.04, subdivision 4, is amended to read:

Subd. 4. "Benefit year" with respect to any individual means the period of fifty-two calendar weeks beginning with the first day of the first week with respect to which the individual files a valid claim for benefits. *For individuals with a claim effective January 1, April 1, July 1, or October 1, the benefit year will be a period of 53 weeks beginning with the first week with respect to which the individual files a valid claim for benefits.*

Sec. 4. Minnesota Statutes 1984, section 268.04, subdivision 24, is amended to read:

Subd. 24. "Valid claim" with respect to any individual means a claim filed by an individual who has registered for work and who has ~~earned wage credits and established credit weeks~~ *been paid wages* during his base period sufficient to entitle him to benefits under section 268.07, subdivision 2.

Sec. 5. 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~~ *the* 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) \$10,700 in 1986, \$11,200 in 1987, \$11,700 in 1988, \$12,200 in 1989, \$12,700 in 1990, \$13,300 in 1991, or, for each year thereafter, 60 percent of the average annual wage rounded to the nearest \$100 computed in accordance with the provisions of clause (f); except that, for each employer that has an experience ratio of less than one-tenth of one percent, that part of the remuneration which exceeds \$8,000 in 1986, \$8,900 in 1987, \$10,000 in 1988, \$11,100 in 1989, \$12,200 in 1990, \$13,300 in 1991, or, for each year thereafter, 60 percent of the average annual wage rounded to the nearest \$100 computed in accordance with the provisions of clause (f), 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. 6. Minnesota Statutes 1984, section 268.04, is amended by adding a subdivision to read:

Subd. 34. [CONTRIBUTION REPORT.] "Contribution report" means the summary report of wages and employment used to determine the amount of contributions due by employers on a calendar quarter basis. An auxiliary report of wages and employment broken down by business locations, when required, is part of the contribution report.

Sec. 7. Minnesota Statutes 1984, section 268.04, is amended by adding a subdivision to read:

Subd. 35. [WAGE DETAIL REPORT.] "Wage detail report" means the itemized report used to record the information required by section 268.121.

Sec. 8. Minnesota Statutes 1984, section 268.04, is amended by adding a subdivision to read:

Subd. 36. [HIGH QUARTER.] "High quarter" means the calendar quarter in an individual's base period for which the total wage credits paid to the individual during that quarter are equal to or greater than the total wage credits paid to the individual during any other calendar quarter in the individual's base period.

Sec. 9. Minnesota Statutes 1984, section 268.06, subdivision 2, is amended to read:

Subd. 2. [RATES.] Each employer shall pay contributions equal to two and seven-tenths percent for each calendar year prior to 1985 and 5-4/10 percent for 1985 and each subsequent calendar year of wages paid and wages overdue and delayed beyond the usual time of payment from him with respect to employment occurring during each calendar year, except as may be otherwise prescribed in subdivisions 3a and 4. Each employer who has an

experience ratio of less than one-tenth of one percent shall pay contributions on only the first \$8,000 in wages paid and wages overdue and delayed beyond the usual time of payment to each employee with respect to employment occurring during each calendar year.

Sec. 10. Minnesota Statutes 1984, section 268.06, subdivision 3a, is amended to read:

Subd. 3a. [RATE FOR NEW EMPLOYERS.] (a) Notwithstanding the provisions of subdivision 2, each employer, who becomes subject to this law, shall pay contributions at a rate:

(a) Not exceeding 2-7/10 percent, that is the higher of (1) one percent and (2) the state's three-year benefit cost rate for the 36 consecutive month period immediately preceding July 1 of each year for each employer who becomes subject to this law prior to January 1, 1984. For purposes of this clause, the state's three-year benefit cost rate shall be computed annually and shall be derived by dividing the total dollar amount of benefits paid to claimants under this law during the 36 consecutive calendar months immediately preceding July 1 of each year by the total dollar amount of wages subject to contributions under this law during the same period. The rate so determined shall be applicable for the calendar year next succeeding each computation date.

(b) Not exceeding 2-7/10 percent, that is the higher of (1) one percent and (2) the state's four-year benefit cost rate for the 48 consecutive month period immediately preceding July 1 of each year for each employer, except employers in the construction industry, as determined by the commissioner, who becomes subject to this law subsequent to December 31, 1983 and prior to January 1, 1985. For purposes of this clause, the state's four-year benefit cost rate shall be computed and derived by dividing the total dollar amount of benefits paid to claimants under this law during the 48 consecutive calendar months immediately preceding July 1, 1983 by the total dollar amount of wages subject to contributions under this law during the same period. The rate so determined shall be applicable for the calendar year 1984.

Each construction employer described above who becomes subject to chapter 268 shall pay contributions at a rate, not exceeding 7-1/2 percent, that is the higher of (1) one percent, or (2) the state's four-year benefit cost rate for construction employers for the 48 consecutive month period immediately preceding July 1, 1983. For purposes of this clause, the state's four-year benefit cost rate shall be computed and derived by dividing the total dollar amount of benefits paid to claimants of construction employers, as determined by the commissioner, during the 48 consecutive calendar months immediately preceding July 1, 1983 by the total dollar amount of wages of construction employers subject to contributions during the same period. The rate so determined shall be applicable for the calendar year 1984.

(c) not exceeding 5-4/10 percent, that is the higher of (1) one percent and (2) the state's five-year benefit cost rate for the 60 consecutive month period immediately preceding July 1, 1984 and of each year thereafter for each employer, except employers in the construction industry, as determined by the commissioner who becomes subject to this law on January 1, 1985 and thereafter. For purposes of this clause, the state's five-year benefit cost rate shall be computed annually and shall be derived by dividing the total dollar amount of benefits paid to claimants under this law during the 60 consecutive

calendar months immediately preceding July 1, 1984 and of each year thereafter by the total dollar amount of wages subject to contributions under this law during the same period. The rate so determined shall be applicable for the calendar year next succeeding each computation date.

(b) Each construction employer described above under paragraph (a) who becomes subject to this chapter shall pay contributions at a rate, not exceeding ~~7-1/2 percent~~ the maximum contribution rate for all employers as provided under subdivision 8, that is the higher of (1) one percent, or (2) the state's five-year benefit cost rate for construction employers for the 60 consecutive month period immediately preceding July 1, 1984 and of each year thereafter. For purposes of this clause, the state's five-year benefit cost rate shall be computed annually and shall be derived by dividing the total dollar amount of benefits paid to claimants of construction employers, as determined by the commissioner, during the 60 consecutive calendar months immediately preceding July 1, 1984 and of each year thereafter by the total dollar amount of wages of construction employers subject to contributions during the same period. The rate so determined shall be applicable for the calendar year next succeeding each computation date.

Sec. 11. 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. 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 (1) 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, or (2) that is directly caused by a fire, flood, or act of God where 70 percent or more of the employees employed in the affected location become unemployed as a result and the employer substantially reopens its operations in that same area within 360 days of the fire, flood, or act of God. Benefits shall be charged to the employer's account where the unemployment is caused by the willful act of the employer or a person acting on behalf of the

employer.

Sec. 12. Minnesota Statutes 1984, section 268.06, subdivision 8, is amended to read:

Subd. 8. [DETERMINATION OF CONTRIBUTION RATES.] (a) For each calendar year the commissioner shall determine the contribution rate of each employer by adding the minimum rate to the 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.

(b) The minimum rate for all employers that have benefits charged to their account at any time during the period described in subdivision 6 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.~~

(c) The minimum rate for all employers that have not had benefits charged to their account at any time during the period described in subdivision 6 shall be two-tenths of one percent less than the minimum rate under paragraph (b) for 1987 and each year thereafter, provided that no rate can be less than zero percent.

(d) The maximum rate for for all employers shall be eight and one-half percent.

(e) A voluntary contribution paid under subdivision 24 shall not qualify an employer for assignment of a minimum rate under paragraph (c).

(f) 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. 13. Minnesota Statutes 1984, section 268.06, is amended by adding a subdivision to read:

Subd. 8a. [SOLVENCY ASSESSMENT.] If the fund balance is less than \$50,000,000 on December 31, 1986, or any year thereafter, a solvency assessment will be in effect for the following calendar year. Each employer, except those making payments in lieu of contributions under subdivisions 25, 26, 27, and 28, and those assigned a minimum rate under subdivision 8, paragraph (c), shall pay a quarterly solvency assessment of ten percent multiplied by the contributions paid or due and payable for each calendar quarter in that year. Quarterly contributions and the solvency assessment payments shall be combined and will be computed notwithstanding the maximum rate established in subdivision 3a or 8, by multiplying the quarterly taxable payroll by the assigned contribution rate multiplied by 1.10.

Sec. 14. Minnesota Statutes 1984, section 268.07, subdivision 2, is amended to read:

Subd. 2. [WEEKLY BENEFIT AMOUNT AND DURATION.] (a) If the commissioner finds that an individual has earned 15, or more, credit weeks 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 percent of the first \$85, 40 percent of the next \$85 and 50 percent of the remainder of the average weekly wage of such individual. The amount so computed if not a whole dollar shall be rounded down to the next lower dollar amount. To establish a benefit year for unemployment compensation insurance benefits, effective after January 1, 1987, and thereafter, an individual must have:

(1) wage credits in two or more calendar quarters of the individual's base period; and

(2) minimum total base period wage credits equal to the high quarter wages multiplied by 1.4; and

(3) high quarter wage credits of not less than \$1,300.

(b) An individual who is unable to establish a valid claim under paragraph (a), clauses (1) to (3), may establish a valid claim if the individual has:

(1) wage credits in at least three calendar quarters of the base period; and

(2) high quarter wage credits equal to at least 20 times the state minimum wage multiplied by 13; and

(3) combined wage credits in at least two of the remaining three calendar quarters equal to at least 20 times the state minimum wage multiplied by 13.

(c) If the commissioner finds that an individual has sufficient wages within the base period to establish a valid claim, the weekly benefit amount payable to the individual during the individual's benefit year shall be equal to 1/26 of the individual's high quarter wage credits, rounded to the next lower whole

dollar.

(d) *Notwithstanding paragraph (c), the maximum weekly benefit amount of claims for benefits which establish a benefit year subsequent to July 1, 1979 1988, shall be ~~66-23~~ 60 percent of the average weekly wage, except as provided in clause (d) as determined under this paragraph.* On or before June 30 of each year the commissioner shall determine the average weekly wage paid by employers subject to sections 268.03 to 268.24 in the following manner:

(a) (1) The sum of the total monthly employment reported for the previous calendar year shall be divided by 12 to determine the average monthly employment.

(b) (2) The sum of the total wages reported for the previous calendar year shall be divided by the average monthly employment to determine the average annual wage.

(c) (3) The average annual wage shall be divided by 52 to determine the average weekly wage.

The maximum weekly benefit amount as so determined computed to the nearest whole dollar shall apply to claims for benefits which establish a benefit year which begins subsequent to June 30 of each year.

(d) (e) *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. Notwithstanding paragraph (c), the maximum weekly benefit amount for claims for benefits which establish a benefit year prior to July 1, 1988, shall be \$228.*

The maximum weekly benefit amount for claims for benefits which establish a benefit year subsequent to June 30, 1983, and prior to July 1, 1984, shall be \$191.

The maximum weekly benefit amount for claims for benefits which establish a benefit year subsequent to June 30, 1984, and prior to July 1, 1985, shall be \$198.

(2) 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) (f) 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.*

(g) *Any otherwise eligible individual shall be entitled during any benefit*

year to a total amount of benefits equal to one-third of his total base period wage credits rounded to the next lower dollar not to exceed 26 times his weekly benefit amount.

Sec. 15. 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 wage credits~~ in seasonal employment, benefits shall be payable only if the commissioner finds that the individual has earned ~~45 credit weeks wage credits~~ *equal to or in excess of 30 times the individual's weekly benefit amount* in employment which is not seasonal, in addition to any ~~credit weeks wage credits~~ in seasonal employment. For the purposes of this subdivision, "seasonal employment" means employment with a single employer in the recreation or tourist industry which is available with the employer for 15 consecutive weeks or less each calendar year.

Sec. 16. Minnesota Statutes 1984, section 268.07, subdivision 3, is amended to read:

Subd. 3. [WHEN WAGE CREDITS ARE NOT AVAILABLE.] (1) ~~No individual may receive benefits in a benefit year unless, subsequent to the beginning of the next preceding benefit year during which benefits were received, the individual performed service in insured work as defined in section 268.04, subdivision 17, and earned remuneration for the service in an amount equal to not less than the minimum wage credits required to qualify for benefits~~ *To establish a second benefit year following the expiration of an immediately preceding benefit year, an individual must have sufficient wage credits to establish a claim under the provisions of subdivision 2 and must have performed services after the establishment of the expired benefit year. The services performed must have been in insured work and the wage credits from the services must equal not less than ten times the weekly benefit amount of the second benefit year.*

(2) No employer who provided 90 percent or more of the wage credits in a claimant's base period shall be charged for benefits based upon earnings of the claimant during a subsequent base period unless the employer has employed the claimant in any part of the subsequent base period.

(3) Wages paid by an employing unit may not be used for benefit purposes by any individual who (a) individually or jointly with a spouse, parent or child owns or controls directly or indirectly 25 percent or more interest in the employing unit; or (b) is the spouse, parent or minor child of any individual who owns or controls directly or indirectly 25 percent or more interest in the employing unit; and (c) is not permanently separated from employment.

This clause is effective when the individual has been paid four times the individual's weekly benefit amount in the current benefit year.

(4) Wages paid in seasonal employment, as defined in subdivision 2a, are not available for benefit purposes during weeks in which there is no seasonal employment available with the employer.

(5) *No employer shall be charged for benefits if he is a base period employer on a second claim solely because of the transition from a base*

period consisting of the 52-week period preceding the claim date to a base period consisting of the first four of the last five completed calendar quarters preceding the claim date.

Sec. 17. Minnesota Statutes 1984, section 268.071, subdivision 1, is amended to read:

Subdivision 1. [DEFINITIONS.] As used in this section, unless the context clearly requires otherwise:

(1) [EXTENDED BENEFIT PERIOD.] "Extended benefit period" means a period which

(a) Begins with the third week after a week for which there is a state "on" indicator; and

(b) Ends with either of the following weeks, whichever occurs later: The third week after the first week for which there is a state "off" indicator; or the 13th consecutive week of the period;

Provided, that no extended benefit period may begin before the 14th week following the end of a prior extended benefit period which was in effect with respect to this state.

(2) [STATE "ON" INDICATOR.] There is a "state 'on' indicator" for this state for a week if the commissioner determines, in accordance with the regulations of the United States secretary of labor, that for the period consisting of such week and the immediately preceding 12 weeks, the rate of insured unemployment (not seasonally adjusted) under this law

(a) equaled or exceeded 120 percent of the average of such rates for the corresponding 13 week period ending in each of the preceding two calendar years, and

(b) equaled or exceeded five percent.

The determination of whether there has been a state "on" indicator beginning any extended benefit period may be made as provided in clauses (a) and (b) above or a "state 'on' indicator" shall exist if the rate described in clause (b) equaled or exceeded six percent irrespective of whether the percentage requirement provided by clause (a) is met or exceeded.

(3) [STATE "OFF" INDICATOR.] There is a "state 'off' indicator" for this state for a week if, for the period consisting of such week and the immediately preceding 12 weeks, the rate of insured unemployment is less than six percent and the requirements for a "state 'on' indicator" under clause (2) of this subdivision are not satisfied.

(4) [RATE OF INSURED UNEMPLOYMENT.] "Rate of insured unemployment," for purposes of clauses (2) and (3), means the percentage derived by dividing the average weekly number of individuals filing claims for regular benefits in this state for weeks of unemployment with respect to the most recent 13 consecutive week period, as determined by the commissioner on the basis of his reports to the United States secretary of labor, by the average monthly employment covered under this law for the first four of the most recent six completed calendar quarters ending before the end of such 13 week period.

(5) [REGULAR BENEFITS.] "Regular benefits" means benefits payable

to an individual under this law or under any other state law (including benefits payable to federal civilian employees and to ex-servicemen pursuant to 5 U.S.C. chapter 85) other than extended benefits and additional benefits.

(6) [EXTENDED BENEFITS.] "Extended benefits" means benefits (including benefits payable to federal civilian employees and to ex-servicemen pursuant to 5 U.S.C. chapter 85) payable to an individual under the provisions of this section for weeks of unemployment in his eligibility period.

(7) [ADDITIONAL BENEFITS.] "Additional benefits" means benefits payable to exhaustees by reason of conditions of high unemployment or by reason of other special factors under the provisions of any state law.

(8) [ELIGIBILITY PERIOD.] "Eligibility period" of an individual means the period consisting of the weeks in his benefit year which begin in an extended benefit period and, if his benefit year ends within such extended benefit period, any weeks thereafter which begin in such period.

(9) [EXHAUSTEE.] "Exhaustee" means an individual who, with respect to any week of unemployment in his eligibility period:

(a) Has received, prior to such week, all of the regular benefits that were available to him under this law or any other state law (including dependents' allowances and benefits payable to federal civilian employees and ex-servicemen under 5 U.S.C. chapter 85) in his current benefit year that includes such week;

Provided, that, for the purposes of this paragraph, an individual shall be deemed to have received all of the regular benefits that were available to him although as a result of a pending appeal with respect to wage credits or ~~credit weeks~~ that were not considered in the original monetary determination in his benefit year, he may subsequently be determined to be entitled to added regular benefits; or

(b) His benefit year having expired prior to such week, has no, or insufficient, wages and/or employment on the basis of which he could establish a new benefit year that would include such week or having established a benefit year that includes such week, he is precluded from receiving regular compensation by reason of: (i) a state law provision which meets the requirements of section 3304 (a) (7) of the Internal Revenue Code of 1954, or (ii) a disqualification determination which cancelled wage credits or totally reduced his benefit rights, or (iii) benefits are not payable by reason of a seasonal limitation in a state unemployment insurance law; and

(c) Has no right to unemployment benefits or allowances, as the case may be, under the railroad unemployment insurance act, the trade expansion act of 1962, the automotive products act of 1965 and such other federal laws as are specified in regulations issued by the United States secretary of labor; and has not received and is not seeking unemployment benefits under the unemployment compensation law of Canada; but if he is seeking such benefits and the appropriate agency finally determines that he is not entitled to benefits under such law he is considered an exhaustee.

(10) [STATE LAW.] "State law" means the unemployment insurance law of any state, approved by the United States secretary of labor under section 3304 of the Internal Revenue Code of 1954.

Sec. 18. [268.0711] [ADDITIONAL UNEMPLOYMENT COMPENSATION BENEFITS; REDUCED OPERATIONS.]

Subdivision 1. Additional unemployment compensation benefits are authorized under this section only if the commissioner determines that:

(1) an employer has reduced operations at an establishment resulting in the reduction of at least 50 percent of the employer's work force and the lay-off of at least 50 employees at that establishment;

(2) the employer does not intend to resume operations which would lead to the reemployment of those employees at any time in the future; and

(3) the unemployment rate for the county in which the establishment is located was ten percent during the month of the reduction or any of the three months preceding or succeeding the reduction.

Subd. 2. [PAYMENT OF BENEFITS.] All benefits payable under this section are payable from the fund.

Subd. 3. [ELIGIBILITY CONDITIONS.] An individual is eligible to receive additional benefits under this section for any week during the individual's benefit year if the commissioner finds that:

(1) the individual's unemployment is the result of a reduction in operations as provided under subdivision 1;

(2) the individual is unemployed and meets the eligibility requirements for the receipt of unemployment benefits under section 268.08;

(3) the individual is not subject to a disqualification for benefits under section 268.09; for the purpose of this subdivision, the disqualifying conditions set forth in section 268.09, and the requalifying requirements thereunder, apply to the receipt of additional benefits under this section;

(4) the individual has exhausted all rights to regular benefits payable under section 268.07, is not entitled to receive extended benefits under section 268.071, and is not entitled to receive unemployment compensation benefits under any other state or federal law for the week in which the individual is claiming additional benefits;

(5) the individual has made a claim for additional benefits with respect to any week the individual is claiming benefits in accordance with the regulations as the commissioner may prescribe with respect to claims for regular benefits; and

(6) the individual has worked at least 26 weeks during the individual's base period in employment with an employer for whom the commissioner has determined there was a reduction in operations under subdivision 1.

Subd. 4. [WEEKLY BENEFIT AMOUNT.] A claimant's weekly benefit amount under this section shall be the same as the individual's weekly benefit amount payable during the individual's current benefit year under section 268.08.

Subd. 5. [MAXIMUM BENEFITS PAYABLE.] A claimant's maximum amount of additional benefits payable in the individual's benefit year shall be the lesser of one-sixth of total base period wage credits earned by the individual in the employ of an employer for whom the commissioner has deter-

mined there was a reduction in operations under subdivision 1, computed to the nearest whole week, or 13 times the individual's weekly benefit amount. Unemployment compensation benefits paid to an individual under any state or federal law other than regular benefits payable under section 268.07 shall be deducted from that individual's maximum amount of additional benefits.

Subd. 6. The additional benefits provided under this section shall be payable to any claimant whose unemployment is the result of a reduction in operations under subdivision 1 which has occurred on July 1, 1984, or thereafter, provided the claimant has filed a claim for additional benefits which is effective January 1, 1986, or thereafter.

Sec. 19. [268.0712] [ADDITIONAL UNEMPLOYMENT COMPENSATION BENEFITS; DISTRESSED AREAS.]

Subdivision 1. [ELIGIBILITY.] A claimant who lives in an economic development region designated pursuant to section 462.385 where the insured unemployment rate is more than 1.5 times the rate of insured unemployment in this state, as calculated under section 268.071, subdivision 1, clause (4), is eligible for additional regular unemployment benefits equal to four times the claimant's weekly benefit amount if the individual has exhausted all rights to regular benefits payable under section 268.07, is not entitled to receive extended benefits under section 268.071 or additional benefits under section 18, and is not entitled to receive unemployment compensation benefits under any other state or federal law for the week in which the individual is claiming additional benefits under this section.

Subd. 2. [ELIGIBILITY PERIOD.] (a) The period for which benefits are payable in an economic development region is the same as the period for which benefits are available under section 268.071; except that, for purposes of that section, the "on-indicator" is the first week after the rate of insured unemployment in the economic development region equals 1.5 times the rate of insured unemployment in this state and the "off indicator" is the first week after the rate of insured unemployment in the economic development region is less than 1.5 times the rate of insured unemployment in this state. For purposes of this subdivision, the "rate of insured unemployment in this state" is calculated in the manner provided under section 268.071, subdivision 4, clause (4); and the "rate of insured unemployment in the economic development region" is calculated in the manner provided under section 268.071, subdivision 1, clause (4), except that, the number of individual filing claims and the average monthly employment for purposes of this calculation is with respect to the particular economic development region only.

Sec. 20. Minnesota Statutes 1985 Supplement, 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;

(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~~ *wage credits* 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; and

(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. *Such payment shall be the lesser of (i) the minimum weekly benefit amount in effect at the time of payment under section 268.07, subdivision 2, paragraph (a) or (b), whichever is applicable, or (ii) the weekly benefit amount the individual is entitled to under sections 268.07 and 268.08.*

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. 21. 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 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. 22. 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 offered work's wage compares with the wage the individual received during the high quarter of the individual's base period.* With respect to the work's wage, the work shall be deemed suitable if it is otherwise suitable considering the above factors and the wage rate offered to the claimant is equal to 100 percent of the claimant's average weekly wage during the high quarter of the claimant's base period, if the work is offered during the first four weeks following a valid claim for benefits; equal to at least 85 percent of the claimant's average weekly wage during the high quarter of the claimant's base period, if the work is offered during weeks five through eight following a valid claim for benefits; equal to at least 75 percent of the claimant's average weekly wage during the high quarter of the claimant's base period, if the work is offered during weeks nine through 12 following a valid claim for benefits; or equal to at least 70 percent of the claimant's average weekly wage during the high quarter of the claimant's base period, if the work is offered after 12 weeks of benefits have been received.

(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. 23. Minnesota Statutes 1984, section 268.10, subdivision 1, is amended to read:

Subdivision 1. [FILING.] (a) Claims for benefits shall be made in accordance with such regulations as the commissioner may prescribe. Each employer shall post and maintain printed statements of such regulations in

places readily accessible to individuals in his service and shall make available to each such individual at the time he becomes unemployed, a printed statement of such regulations. Such printed statements shall be supplied by the commissioner to each employer without cost to him.

(1) (b) Any employer upon separation of an employee from his employment for any reason which may result in disqualification for benefits under section 268.09, shall furnish to such employee a separation notice which shall provide the employer's name, address, and employer account number as registered with the department, the employee's name and social security account number, the inclusive dates of his employment, and the reason for the separation. A copy of such separation notice shall be filed with the commissioner within seven days of such separation. The commissioner shall require each individual filing a claim for benefits to establish a benefit year to furnish the reason for separation from all employers in his base period.

(2) Upon the filing, by an individual, of a claim for benefits, the commissioner shall give notice to all such base period employers of the filing of such claim and request each such base period employer, within seven days after the mailing of such notice, to furnish the following information:

(a) The total wage credits earned in the base period;

(b) The number of credit weeks which end within the base period;

(c) The week ending dates for each calendar week within the base period in which the individual earned less than the amount required to make a credit week and the amount of earnings in each such week;

(d) The reason for the separation or separations of such individual from the employ of the employer in the base period; and

(e) Such employer's protest, if any, relating to the ineligibility or disqualification of such individual.

(3) If any base period employer, after the notice of filing of a claim and the request for wage and separation information has been duly mailed to his last known address, fails to file information as provided by items (a) through (e) of clause 2 of this subdivision within seven days, the commissioner shall:

(a) Determine the validity of an individual's claim based on the claimant's statements or any other available information. An employer shall be liable for a late filing fee of not less than \$5 nor more than \$25, as the commissioner may determine, to be paid to the department of economic security and credited to the contingent fund if he has failed without good cause to submit the wage and separation information as required in clause 2 of this subdivision within seven days after the request has been duly mailed to his last known address.

(c) Upon establishment of a benefit year, the commissioner shall give notice to the last employer for whom the individual worked and all base period employers. The employer so notified shall have seven days after the mailing of the notice to file a protest to monetary entitlement or raise an issue of ineligibility or disqualification.

(d) If, upon review of the wage information on file with the department, it is found that an employer failed to provide wage information for the claim-

ant, the commissioner shall accept a claimant certification as to the wages earned, based upon the claimant's records, and issue a monetary determination of validity certification. This determination may be modified based upon corrected information subsequently received from the employer or other sources. The employer who failed to report the individual's wages or filed an erroneous report may be penalized in accordance with section 268.16 or 268.18. In the absence of fraud, if a redetermination of validity of claim based on an employer's late or erroneous report subsequently cancels or reduces the amount of benefits to which a claimant was entitled under the initial determination, the claimant shall not be required to make repayment to the fund of any benefits paid to him prior to such redetermination; and

(b) (e) The commissioner shall determine any issue of disqualification raised by ~~clause (1) under paragraph (c)~~ or by an employer's late report. If an employer fails to file a separation notice within the time limits prescribed in ~~clause (1) paragraph (b)~~, any relief from benefit charges provided by section 268.09, subdivision 1, clause (4), shall apply to weeks of unemployment beginning after the filing of the late report.

Sec. 24. 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 a protest as provided in subdivision 1, clause (2) paragraph (c), the employer makes an allegation of disqualification or raises an issue of the chargeability to his account of benefits that may be paid on such claim, if the claim is valid, the issue thereby raised shall be promptly determined by said official and a notification of the determination delivered or mailed to the claimant and the employer. If an initial determination or an appeal tribunal decision or the commissioner's decision awards benefits, the benefits shall be paid promptly regardless of the pendency of any appeal period or any appeal or other proceeding which may thereafter be taken. Except as provided in clause (6), if an appeal tribunal decision modifies or reverses an initial determination awarding benefits, or if a commissioner's decision modifies or reverses an appeal decision awarding benefits, any benefits paid under the award of such initial determination or appeal~~

tribunal decision shall be deemed erroneous payments.

(2) At any time within 24 months from the date of the filing of a valid claim for benefits by an individual, an official of the department or any interested party or parties raises an issue of claimant's eligibility for benefits for any week or weeks in accordance with the requirements of the provisions of sections 268.03 to 268.24 or any official of the department or any interested party or parties or benefit year employer raises an issue of disqualification in accordance with the regulations of the commissioner, a determination shall be made thereon and a written notice thereof shall be given to the claimant and such other interested party or parties or benefit year employer. A determination issued under this clause which denies benefits for weeks for which the claimant has previously been paid benefits is an overpayment of those benefits subject to section 268.18.

(3) A determination issued pursuant to clauses (1) and (2) shall be final unless an appeal therefrom is filed by a claimant or employer within 15 days after the mailing of the notice of the determination to his last known address or personal delivery of the notice. Every notice of determination shall contain a prominent statement indicating in clear language the method of appealing the determination, the time within which such an appeal must be made, and the consequences of not appealing the determination. A timely appeal from a determination of validity in which the issue is whether an employing unit is an employer within the meaning of this chapter or whether services performed for an employer constitute employment within the meaning of this chapter shall be subject to the provisions of section 268.12, subdivision 13.

(4) At any time within 24 months from the date of the filing of a valid claim for benefits by an individual, the commissioner on his own motion may reconsider a determination of validity made thereon and make a redetermination thereof if he finds that an error in computation or identity or the crediting of wage credits has occurred in connection therewith or if the determination was made as a result of a nondisclosure or misrepresentation of a material fact. A determination or redetermination issued under this clause which denies benefits for weeks for which the claimant has previously been paid benefits is an overpayment of those benefits subject to section 268.18.

(5) However, the commissioner may in his discretion refer any disputed claims directly to a referee for hearing and determination in accordance with the procedure outlined in subdivision 3 and the effect and status of such determination in such a case shall be the same as though the matter had been determined upon an appeal to the tribunal from an initial determination.

(6) If a referee's decision affirms an initial determination awarding benefits or the commissioner affirms an appeal tribunal decision awarding benefits, the decision, if finally reversed, shall not result in a disqualification and benefits paid shall neither be deemed overpaid nor shall they be considered in determining any individual employer's future contribution rate under section 268.06.

Sec. 25. 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, 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, or any other duly authorized representative of the commissioner deems necessary for the effective administration of sections 268.03 to 268.24, ~~provided that quarterly contribution and wage report forms shall include the employee's name, social security number, and total wages paid to the employee.~~

(2) The commissioner may cause to be made such summaries, compilations, photographs, duplications, or reproductions of any records, reports, or transcripts thereof as he may deem advisable for the effective and economical preservation of the information contained therein, and such summaries, compilations, photographs, duplications or reproductions, duly authenticated, shall be admissible in any proceeding under sections 268.03 to 268.24, if the original record or records would have been admissible therein. Notwithstanding any restrictions contained in section 16B.50, except restrictions as to quantity, the commissioner is hereby authorized to duplicate, on equipment furnished by the federal government or purchased with funds furnished for that purpose by the federal government, records, reports, summaries, compilations, instructions, determinations, or any other written matter pertaining to the administration of the Minnesota economic security law.

(3) Notwithstanding any inconsistent provisions elsewhere, the commissioner may provide for the destruction or disposition of any records, reports, transcripts, or reproductions thereof, or other papers in his custody, which are more than two years old, the preservation of which is no longer necessary for the establishment of contribution liability or benefit rights or for any purpose necessary to the proper administration of sections 268.03 to 268.24, including any required audit thereof, provided, that the commissioner may provide for the destruction or disposition of any record, report, or transcript, or other paper in his custody which has been photographed, duplicated, or reproduced in the manner provided in clause (2).

(4) Notwithstanding the provisions of the Minnesota State Archives Act the commissioner shall with the approval of the legislative auditor destroy all benefit checks and benefit check authorization cards that are more than two years old and no person shall make any demand, bring any suit or other proceeding to recover from the state of Minnesota any sum alleged to be due him on any claim for benefits after the expiration of two years from the date of filing such claim.

Sec. 26. Minnesota Statutes 1984, section 268.121, is amended to read:

268.121 [WAGE REPORTING.]

Beginning on April 1, 1984, each employer subject to this chapter shall provide the commissioner with a quarterly report of the wages, as defined in ~~section 268.04, subdivision 25,~~ paid to each employee of that employer covered by this chapter. ~~The commissioner shall provide the legislature with his recommendations for statutory changes to fully implement this section no~~

later than January 1, 1983 The report must include the employee's name, social security number, and the total wages paid to the employee. The report is due and must be filed at the same time as the contribution report in accordance with rules established by the commissioner for filing of quarterly contribution reports. For the purpose of this section, "wages paid" includes wages actually or constructively paid and wages overdue and delayed beyond the usual time of payment.

Sec. 27. Minnesota Statutes 1984, section 268.16, subdivision 2, is amended to read:

Subd. 2. [REPORTS; DELINQUENCIES; PENALTIES.] (H) (a) Any employer who knowingly fails to make and submit to the department of ~~economic security~~ any contribution report of wages paid by or due from him for insured work in the manner and at the time such the report is required by regulations rules prescribed by the commissioner shall pay to the department of ~~economic security~~ for the contingent account a penalty in the amount of one and one-half percent of contributions accrued during the period for which such the report is required, for each month from and after such the due date until such the report is properly made and submitted to the department of ~~economic security~~. In no case shall the amount of the penalty imposed hereby be less than \$5 per month. The maximum penalty imposed hereby shall be \$25 or the amount determined at the rate of 1-1/2 percent per month, whichever is greater. Any employing unit which fails to make and submit to the commissioner any report, other than one of wages paid or payable for insured work, as and when required by the regulations of the commissioner, shall be subject to a penalty in the sum of \$10 payable to the department of economic security for the contingent account. All such penalties shall be in addition to interest and any other penalties provided for by sections 268.03 to 268.24 and shall be collected as provided by section 268.161.

(2) (b) If any employing unit required by sections 268.03 to 268.24 to make and submit contribution reports shall fail to do so within the time prescribed by these sections or by regulations under the authority thereof, or shall make, willfully or otherwise, an incorrect, false or fraudulent contribution report, he shall, on the written demand of the commissioner, make such contribution report, or corrected report, within ten days after the mailing of such written demand and at the same time pay the whole contribution, or additional contribution, due on the basis thereof. If such employer shall fail within that time to make such report, or corrected report, the commissioner shall make for him a report, or corrected report, from his own knowledge and from such information as he can obtain through testimony, or otherwise, and assess a contribution on the basis thereof, which contribution, plus penalties and interest which thereafter accrued (less any payments theretofore made) shall be paid within ten days after the commissioner has mailed to such employer a written notice of the amount thereof and demand for its payment. Any such contribution report or assessment made by the commissioner on account of the failure of the employer to make a report or corrected report shall be prima facie correct and valid, and the employer shall have the burden of establishing its incorrectness or invalidity in any action or proceeding in respect thereto. Whenever such delinquent employer shall file a report or corrected report, the commissioner may, if he finds it substantially correct, substitute it for the commissioner's report.

(c) Any employer who fails to file the wage detail report required by section 268.121 shall pay to the department for the contingent account a penalty of one-half of one percent of total wages paid and wages due but not paid during the period for each month the report is delinquent. The penalty shall not be assessed if the wage detail report is properly made and filed within 30 days after a demand for the report is mailed to the employer's address of record. In no case shall the amount of the penalty, if assessed, be less than \$25. Penalties due under this subdivision may be waived where good cause for late filing is found by the commissioner.

(d) Any employer who files the wage detail report required by section 268.121, but knowingly fails to include any of the required information or knowingly enters erroneous information, shall be subject to a penalty of \$25 for each individual for whom the information is missing or erroneous.

(e) Any employing unit which fails to make and submit to the commissioner any report, other than a contribution report or wage detail report, as and when required by rule, shall be subject to a penalty in the sum of \$50 payable to the department for the contingent account.

(f) The penalties provided for in paragraphs (a), (c), (d), and (e) are in addition to interest and any other penalties imposed by sections 268.03 to 268.24 and shall be collected as provided by section 268.161.

Sec. 28. Minnesota Statutes 1984, section 268.16, is amended by adding a subdivision to read:

Subd. 2a. [COSTS.] Any employing unit which fails to make and submit reports or pay any contributions or reimbursement when due is liable to the department for any recording fees, sheriff fees, or litigation costs incurred in obtaining the reports or collecting the amounts due.

If any check or money order, in payment of any amount due under sections 268.03 to 268.24, is not honored when presented for payment, the employing unit will be assessed a fee of \$20 which shall be in addition to any other fees required under sections 268.03 to 268.24. The fee shall be assessed regardless of the amount of the check or money order or the reason for nonpayment with the exception of processing errors made by a financial institution.

Costs due under this subdivision shall be paid to the department and credited to the administration fund.

Sec. 29. [REVISOR'S INSTRUCTION.]

The revisor of statutes shall change all references in chapter 268 to the "department of economic security" to the "department of jobs and training."

Sec. 30. [268.86] [LOAN.]

Up to \$20,000,000 is appropriated and authorized as a loan from the general fund to the commissioner of jobs and training for transfer to the unemployment compensation fund established under section 268.05 for the purpose of paying unemployment benefits due during the period from November 10, 1986, through January 1, 1987, to the extent there are insufficient funds in the unemployment compensation fund for the payment of benefits. The commissioner may transfer to the unemployment compensa-

tion fund and spend only amounts from this loan as are necessary to pay all unemployment benefits due during the period from November 10, 1986, through January 1, 1987, without requiring an advance from the secretary of the treasury of the United States under section 1201 of the Social Security Act, as amended. Amounts transferred from this loan are repayable to the general fund immediately after January 1, 1987, from contributions obtained by the commissioner pursuant to section 268.06. The amounts necessary to make the repayment are appropriated from the unemployment compensation fund for transfer to the general fund. These appropriations are available until June 30, 1987.

Sec. 31. [REPEALER.]

Minnesota Statutes 1984, section 268.04, subdivisions 8, 29, and 30, are repealed.

Sec. 32. [EFFECTIVE DATE.]

Section 11 is effective January 1, 1986. Sections 1, 6, 7, 18, 19, 25, 26, 27, 28, 29, and 30 are effective the day following final enactment. Sections 21 and 22 are effective July 1, 1986. Sections 2, 3, 4, 5, 8, 9, 10, 12, 13, 15, 16, 17, 23, 24, and 31 are effective January 1, 1987. That portion of section 20 relating to the striking of "credit weeks" and addition of "wage credits" is effective January 1, 1987; that portion of section 20 relating to the payment for the waiting week is effective July 1, 1986. Section 14, subdivision 2, except paragraph (b), is effective January 1, 1987; section 14, subdivision 2, paragraph (b), is effective January 1, 1988."

Delete the title and insert:

"A bill for an act relating to unemployment compensation; regulating benefits and contribution rates; appropriating money; amending Minnesota Statutes 1984, sections 268.04, subdivisions 2, 4, 24, and 25, and by adding subdivisions; 268.06, subdivisions 2, 3a, 5, and 8. and by adding a subdivision; 268.07, subdivisions 2, 2a, and 3; 268.071, subdivision 1; 268.09, subdivisions 1 and 2; 268.10, subdivisions 1 and 2; 268.12, subdivision 8; 268.121; 268.16, subdivision 2, and by adding a subdivision; and Minnesota Statutes 1985 Supplement, sections 268.0111, by adding a subdivision; 268.08, subdivision 1; proposing coding for new law in Minnesota Statutes, chapter 268; repealing Minnesota Statutes 1984, section 268.04, subdivisions 8, 29, and 30."

The motion prevailed. So the amendment was adopted.

Mr. Chmielewski then moved to amend the Chmielewski amendment to S.F. No. 2114, adopted by the Senate March 11, 1986, as follows:

Page 11, line 12, before "eight" insert "seven and one-half percent for 1987 and thereafter; except that, an employer who has had a contribution rate of at least seven and one-half percent for each of the last five calendar years shall be subject to a maximum rate of"

Page 11, line 16, before the period, insert "nor avoidance of the higher maximum rate under paragraph (d)"

The motion prevailed. So the amendment to the amendment was adopted.

Mr. Wegscheid moved to amend S.F. No. 2114 as follows:

Delete everything after the enacting clause and insert:

“ARTICLE I

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 (A) (i) \$11,400 for calendar year 1987 and \$12,000 for calendar year 1988 and all calendar years thereafter, for each employer that has an experience ratio of one-tenth of one percent or more, or (ii) \$10,000 for calendar year 1987, and \$12,000 for calendar year 1988 and thereafter, for each employer that has an experience ratio of less than one-tenth of one percent, 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. The value of any meals and lodgings furnished by or on behalf of the employer, if at the time of such furnishings it is reasonable to believe that the employee will be able to exclude such items from income under United States Code, title 26, section 119.

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; or (2) provided weekly employment in the base period on an on-call as needed basis, continues to employ the individual on the same basis and provides employment substantially equal to the employment provided in the base period, and is an interested party because of the individual's loss of other employment.

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 *that have had benefits charged to their account at any time during the period described in subdivision 6* 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.

The minimum rate for all employers that have not had benefits charged to their account at any time during the period described in subdivision 6 shall be eight-tenths of one percent for calendar year 1987 and seven-tenths of one percent for calendar year 1988 and thereafter.

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. [268.062] [STANDBY SOLVENCY SURTAX.]

If the balance in the unemployment compensation fund as calculated on April 1 of a year is less than 12.5 percent of benefits paid out in the previous year, a ten percent surtax is imposed on employers payable to the unemployment compensation fund. The surtax is imposed on the experience portion of the employer's contributions for the calendar year preceding the April 1 calculation. The surtax shall be assessed on the July 1 next following the April 1 calculation and is due March 1 of the year following its imposition. The surtax imposed by this subdivision is not a part of the employer's contribution rate for the purpose of the maximum tax limitation of section 268.06, subdivision 8. An employer's surtax under this section and contribution rate under section 268.06, subdivision 8, shall not in the aggregate exceed 8.15 percent.

Sec. 7. Minnesota Statutes 1984, section 268.07, subdivision 2, is amended to read:

Subd. 2. [WEEKLY BENEFIT AMOUNT AND DURATION.] If the commissioner finds that an individual has earned ~~15, 18 or more,~~ credit weeks within the base period of employment in insured work with one or more employers *for claims establishing a benefit year prior to July 1, 1988, or 20 or more credit weeks for claims establishing a benefit year subsequent to June 30, 1988,* benefits shall be payable to such individual during his benefit year as follows:

(1) *The weekly benefit amount shall be equal to 60 percent of the first \$85, 40 percent of the next \$85 and 50 percent of the remainder of the average weekly wage of such individual.*

(a) *for claims which establish a benefit year prior to July 1, 1987, the individual's total base period wage credits multiplied by 1.0 percent; or*

(b) *for claims which establish a benefit year subsequent to June 30, 1987, the individual's total base period wage credits multiplied by 1.1 percent if it is the individual's first claim during the five-year period immediately preceding the claim filing, or 1.0 percent for subsequent claims filed within that five-year period.*

The amount ~~so~~ computed *under this paragraph*, 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 maximum weekly benefit amount for claims for benefits which establish a benefit year subsequent to June 30, 1984, and prior to July 1, 1985, shall be \$198.

(2) 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; *except that, the maximum number of weeks of benefits that can be received as calculated under this paragraph shall be increased by one for each full year, excluding the first five years, of continuous employment the individual has worked with the same employer, subject to a maximum of eight additional weeks. For purposes of this paragraph, "continuous employment" means an individual has 26 or more credit weeks in a calendar year with the same employer with credit being given for leaves of absence for health reasons.*

(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. *In addition, one-fourth of the individual's earnings up to the amount of the individual's benefit shall not apply to reduce the individual's benefit.* 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. *The minimum*

weekly benefit amount for claims for benefits which establish a benefit year subsequent to June 30, 1986, shall be \$68. The maximum weekly benefit amount for claims for benefits that establish a benefit year subsequent to June 30, 1986, shall be \$228.

Sec. 8. 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 ~~45~~ 18 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 employment with a single employer in the recreation or tourist industry which is available with the employer for ~~45~~ 18 consecutive weeks or less each calendar year.

Sec. 9. [268.073] [ADDITIONAL UNEMPLOYMENT COMPENSATION BENEFITS.]

Subdivision 1. Additional unemployment compensation benefits are authorized under this section only if the commissioner determines that:

(1) an employer has reduced operations at an establishment resulting in the reduction of at least 50 percent of the employer's work force and the lay-off of at least 50 employees at that establishment;

(2) the employer does not intend to resume operations which would lead to the reemployment of those employees at any time in the future; and

(3) the unemployment rate for the county in which the establishment is located was ten percent during the month of the reduction or any of the three months preceding or succeeding the reduction.

Subd. 2. [PAYMENT OF BENEFITS.] All benefits payable under this section are payable from the fund.

Subd. 3. [ELIGIBILITY CONDITIONS.] An individual is eligible to receive additional benefits under this section for any week during the individual's benefit year if the commissioner finds that:

(1) the individual's unemployment is the result of a reduction in operations as provided under subdivision 1;

(2) the individual is unemployed and meets the eligibility requirements for the receipt of unemployment benefits under section 268.08;

(3) the individual is not subject to a disqualification for benefits under section 268.09; for the purpose of this subdivision, the disqualifying conditions set forth in section 268.09, and the requalifying requirements thereunder, apply to the receipt of additional benefits under this section;

(4) the individual has exhausted all rights to regular benefits payable under section 268.07, is not entitled to receive extended benefits under section 268.071, and is not entitled to receive unemployment compensation benefits under any other state or federal law for the week in which the individual is claiming additional benefits;

(5) the individual has made a claim for additional benefits with respect to any week the individual is claiming benefits in accordance with the regulations as the commissioner may prescribe with respect to claims for regular benefits; and

(6) the individual has worked at least 26 weeks during the individual's base period in employment with an employer for whom the commissioner has determined there was a reduction in operations under subdivision 1.

Subd. 4. [WEEKLY BENEFIT AMOUNT.] A claimant's weekly benefit amount under this section shall be the same as the individual's weekly benefit amount payable during the individual's current benefit year under section 268.08.

Subd. 5. [MAXIMUM BENEFITS PAYABLE.] A claimant's maximum amount of additional benefits payable in the individual's benefit year shall be six times the individual's weekly benefit amount. Unemployment compensation benefits paid to an individual under any state or federal law other than regular benefits payable under section 268.07 shall be deducted from that individual's maximum amount of additional benefits.

Subd. 6. The additional benefits provided under this section shall be payable to any claimant who meets the eligibility conditions under subdivision 3 whose unemployment occurred on July 1, 1984, or thereafter, provided the claimant has filed a claim for additional benefits which is effective January 1, 1986, or thereafter.

Sec. 10. Minnesota Statutes 1985 Supplement, 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;

(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; and

(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 as follows: *ten percent of the amount of the individual's weekly benefit amount otherwise payable shall be paid 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; the remaining 90 percent of the individual's weekly benefit amount shall be paid to the individual after the last week for which the individual has qualified for and been paid benefits.* 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. 11. 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.

If an individual's benefit is reduced because of the receipt of a pension from the employer that the individual left due to the reasons described in clause (b), the individual's benefit year shall be extended by the number of weeks necessary for the individual to receive the benefit which would have been paid in the benefit year except for that reduction if the following conditions are satisfied:

(a) the individual is ineligible for benefits solely due to the lapse of the benefit year;

(b) the individual is unemployed due to the closing of a place of employment or is otherwise permanently laid off and not due to a voluntary decision of the individual to retire; and

(c) the individual had not attained mandatory retirement age at the time the individual became unemployed.

Sec. 12. 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 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. 13. 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.

(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.

(c) Except as otherwise provided in paragraph (b), work is suitable if it meets the requirements of paragraph (a) and pays 75 percent or more of the individual's gross weekly wages.

Sec. 14. [UNEMPLOYMENT BENEFIT BORROWINGS.]

The commissioner of jobs and training must determine on October 1, 1986, whether there will be sufficient funds in the unemployment compensation fund established under section 268.05, subdivision 5, for the payment of unemployment benefits from November 10, 1986, to January 1, 1987.

If the commissioner determines there is a possibility that there will be insufficient money in the fund to pay those benefits the commissioner must notify the commissioner of finance immediately. The commissioner of finance must, upon receiving notice, arrange for short term borrowing an amount necessary to cover the insufficiency as calculated by the commissioner of jobs and training and deposit the money in the unemployment compensation fund.

The commissioner of jobs and training must spend only amounts from the borrowing as are necessary to pay all unemployment benefits due from November 1, 1986, to January 1, 1987, without requiring an advance from the secretary of the treasury of the United States under section 1201 of the social security act, as amended.

The loan is repayable immediately subsequent to January 1, 1987, from employers contributions made to the commissioner pursuant to section 268.06. Interest on the loan shall be paid from funds available to the com-

missioner of jobs and training to the extent it does not violate federal law or regulations otherwise the interest shall be paid from the general fund.

Sec. 15. Minnesota Statutes 1984, section 16A.671, subdivision 1, is amended to read:

Subdivision 1. [AUTHORITY; ADVISORY RECOMMENDATION.] To ensure that cash is available when needed to pay warrants drawn on the general fund under appropriations and allotments and for transfers under section 14, the governor may authorize the commissioner (1) to issue certificates of indebtedness in anticipation of the collection of taxes levied for and other revenues appropriated to the general fund for expenditure during each biennium; and (2) to issue additional certificates to refund outstanding certificates and interest on them, under the Constitution, article XI, section 6.

Sec. 16. [REEMPLOYMENT BENEFIT STUDY.]

The commissioner of the department of jobs and training shall study the feasibility and public policy implication of providing partial weekly benefits to individuals that return to work prior to the time their benefit eligibility ceases. The commissioner shall report the results of the study along with any recommendations to each house of the legislature by January 1, 1987.

Sec. 17. [QUARTERLY QUALIFYING STUDY.]

The commissioner of the department of jobs and training shall make a detailed study of quarterly qualifying statutes in other states and shall present that study, along with a proposal for its implementation, to the legislature no later than January 1, 1987. The proposal shall be as revenue- and benefit-neutral as practicable with reference to the laws in effect as of January 1, 1987, as is reasonably possible. The report shall include a detailed explication of the need for adoption of this system, including pertinent citations of federal laws, and a timetable for its implementation.

Sec. 18. [EFFECTIVE DATE.]

Sections 1, 4, 9, 10, 11, 12, 13, 14, 15, 16, and 17 are effective the day following final enactment. Sections 2, 3, 7, and 8 are effective July 1, 1986. Sections 5 and 6 are effective January 1, 1987.

ARTICLE 2

TRANSFER OF AUTHORITY TO OFFICE OF ADMINISTRATIVE HEARINGS

Section 1. [TRANSFER FROM DEPARTMENT OF JOBS AND TRAINING.]

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 an authorized representative from the department of jobs and training to the office of administrative hearings.*

Subd. 2. [PERSONNEL; EQUIPMENT.] *All unemployment insurance referees at the department of jobs and training are transferred to the office of administrative hearings pursuant to Minnesota Statutes, section 15.039, except as otherwise provided by this article. Notwithstanding any laws to the*

contrary, all unemployment insurance referees employed by the department of jobs and training 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. Notwithstanding the provisions of section 15.039, or any other provision of this article, the chief administrative law judge, in consultation with the commissioner of employee relations, shall appoint supervisory unemployment insurance judges. Referees transferred pursuant to this section fulfilling supervisory functions with the department of jobs and training at the time of transfer may be considered for appointment as supervisory unemployment insurance judges. All personnel and positions at the department of jobs and training 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, and answering of telephones are transferred to the office of administrative hearings pursuant to Minnesota Statutes, section 15.039.

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 jobs and training 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 jobs and training, 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 unemployment insurance judge of the office of administrative hearings, (d) the social security disability determination program in the department of ~~economic security~~ jobs and training, ~~(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 1985 Supplement, 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. The chief administrative law judge may delegate to a subordinate employee the exercise of a specified statutory power or duty as deemed advisable, subject to the control of the chief administrative law judge. Every delegation must be by written order filed with the secretary of state. All administrative law judges, *unemployment insurance 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 1985 Supplement, 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*, and to govern the conduct of voluntary mediation sessions for rulemaking and contested cases other than those within the jurisdiction of the bureau of mediation services. ~~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 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~~ *finance* 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.

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 insurance 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 insurance 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 insurance 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 insurance 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 insurance 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 insurance 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 insurance 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 insurance 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 insurance judge~~ decision modifies or reverses an initial determination awarding benefits, or if a commissioner's decision modifies or reverses an ~~appeal unemployment insurance judge~~ decision awarding benefits, any benefits paid under the award of such initial determination or ~~appeal tribunal unemployment insurance 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 insurance judge* from an initial determination.

(6) If ~~a referee's~~ *an unemployment insurance judge's* decision affirms an initial determination awarding benefits or the commissioner affirms an ~~appeal tribunal~~ *unemployment insurance 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 insurance 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 insurance 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 insurance 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 insurance judge shall exclude from any consolidated hearing the appeal of an individual who may be prejudiced because of the consolidation. A referee An unemployment insurance judge shall not hear any appeal in which the referee unemployment insurance judge has a direct interest. The parties and the commissioner shall be notified of the referee's unemployment insurance judge's decision and the reason for it. The referee's unemployment insurance 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 department shall cause a transcript to be prepared of all cases heard by an unemployment insurance judge from which an appeal is made to the commissioner. There shall be no charges, fees, transcript costs, or other cost imposed upon the employee in prosecuting an appeal. All decisions of referees unemployment insurance 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 unemployment insurance judge's decision to the claimant or employer at the last known address, a party may file, with the commissioner, a notice of appeal from the decision and obtain a review of it by the commissioner or an authorized representative. 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 on the basis of the evidence previously submitted in the case, or remand the matter back to the referee for the taking of additional evidence and new findings and decision based on all of the evidence before the referee. The notice of appeal must set forth the issues raised on appeal. The notice of the decision of the unemployment compensation judge must explain how an appeal may be filed. On an appeal taken under this subdivision, the commissioner or authorized representative is limited to the issues raised by the parties in the notice of the appeal from the unemployment insurance judge's decision. The commissioner or authorized representative, on the basis of evidence previously submitted, may affirm the decision of the unemployment insurance judge, may remand the case for further proceedings, or may modify or reverse the decision if the unemployment insurance judge's decision is in error of law, violates the procedures of chapter 268, is unsupported by substantial evidence in view of the record as a whole when the issue in dispute involves a question of fact, or is arbitrary or capricious. Notice of all hearings on review shall be given to all interested parties in the same manner as provided for by subdivision 3. Upon the motion of a party, the commissioner or authorized representative may remove to himself or herself or transfer to another referee unemployment insurance judge the proceedings on any claim pending before a referee unemployment insurance judge. 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 and the chief administrative law judge 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 insurance 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 insurance 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 insurance 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 insurance 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 insurance judge*, or any other duly authorized representative of the commissioner deems necessary for the effective administration of sections 268.03 to 268.24, provided that quarterly contribution and wage report forms shall include the employee's name, social security number, and total wages paid to the employee.

(2) The commissioner may cause to be made such summaries, compilations, photographs, duplications, or reproductions of any records, reports, or transcripts thereof as he may deem advisable for the effective and economical preservation of the information contained therein, and such summaries, compilations, photographs, duplications or reproductions, duly authenticated, shall be admissible in any proceeding under sections 268.03 to 268.24, if the original record or records would have been admissible therein.

Notwithstanding any restrictions contained in section 16B.50, except restrictions as to quantity, the commissioner is hereby authorized to duplicate, on equipment furnished by the federal government or purchased with funds furnished for that purpose by the federal government, records, reports, summaries, compilations, instructions, determinations, or any other written matter pertaining to the administration of the Minnesota economic security law.

(3) Notwithstanding any inconsistent provisions elsewhere, the commissioner may provide for the destruction or disposition of any records, reports, transcripts, or reproductions thereof, or other papers in his custody, which are more than two years old, the preservation of which is no longer necessary for the establishment of contribution liability or benefit rights or for any purpose necessary to the proper administration of sections 268.03 to 268.24, including any required audit thereof, provided, that the commissioner may provide for the destruction or disposition of any record, report, or transcript, or other paper in his custody which has been photographed, duplicated, or reproduced in the manner provided in clause (2).

(4) Notwithstanding the provisions of the Minnesota State Archives Act the commissioner shall with the approval of the legislative auditor destroy all benefit checks and benefit check authorization cards that are more than two years old and no person shall make any demand, bring any suit or other proceeding to recover from the state of Minnesota any sum alleged to be due him on any claim for benefits after the expiration of two years from the date of filing such claim.

Sec. 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 insurance 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 insurance 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~~

insurance 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 insurance 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 insurance 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 insurance 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 insurance 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 insurance judge* shall serve upon the interested parties by mail findings of fact and decision. The decision of the ~~referee~~ *unemployment insurance 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 and serves a copy of the appeal on the 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 insurance 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 insurance judge* on the basis of the evidence previously submitted in the case, or direct the taking of additional evidence. The commissioner may disregard the findings of fact of the ~~referee~~ *unemployment insurance judge* and examine the testimony taken and make any findings of fact as the evidence taken before the ~~referee~~ *unemployment insurance 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 and the chief administrative law judge 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 insurance 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 insurance 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 insurance 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 insurance 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.]

This article is effective October 1, 1986."

Delete the title and insert:

"A bill for an act relating to employment; regulating the administration of the unemployment compensation law; providing for the amount of benefits; regulating benefit eligibility; providing for employer contributions; transferring certain hearing functions and personnel to the office of administrative hearings; amending Minnesota Statutes 1984, sections 14.03, subdivision 2; 14.53; 16A.671, subdivision 1; 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 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; Minnesota Statutes 1985 Supplement, sections 14.48; 14.51; and 268.08, subdivision 1; proposing coding for new law in Minnesota Statutes, chapter 268."

Mr. Wegscheid then moved to amend the Wegscheid amendment to S.F. No. 2114, adopted by the Senate March 11, 1986, as follows:

Page 8, line 14, strike "equal to"

The motion prevailed. So the amendment to the amendment was adopted.

Mr. Wegscheid then moved to amend the Wegscheid amendment to S.F. No. 2114, adopted by the Senate March 11, 1986, as follows:

Page 10, line 23, before "18" insert "at least"

Page 10, line 23, after "seasonal" insert "for claims establishing a benefit year prior to July 1, 1988, or at least 20 credit weeks in employment which is not seasonal for claims establishing a benefit year subsequent to June 30, 1988"

CALL OF THE SENATE

Mr. Wegscheid imposed a call of the Senate for the balance of the proceedings on S.F. No. 2114. The Sergeant at Arms was instructed to bring in the absent members.

The question recurred on the adoption of the amendment to the amendment.

The roll was called, and there were yeas 34 and nays 33, as follows:

Those who voted in the affirmative were:

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

Those who voted in the negative were:

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

The motion prevailed. So the amendment to the amendment was adopted.

Mr. Petty moved to amend the Wegscheid amendment to S.F. No. 2114, adopted by the Senate March 11, 1986, as follows:

Page 1, after line 32, insert:

“Sec. 2. Minnesota Statutes 1984, section 268.04, subdivision 24, is amended to read:

Subd. 24. “Valid claim” with respect to any individual means a claim filed by an individual who has registered for work and who has earned wage credits and established credit weeks *or alternative credit weeks* during his base period sufficient to entitle him to benefits under section 268.07, subdivision 2.”

Page 5, after line 5, insert:

“Sec. 5. Minnesota Statutes 1984, section 268.04, is amended by adding a subdivision to read:

Subd. 29a. [ALTERNATIVE CREDIT WEEK.] “*Alternative credit week*” means any week for which wages or back pay, actually or constructively paid, wages overdue and delayed beyond the usual time of payment, and back pay by or from one or more employers to an employee for insured work equal or exceed 20 times the state minimum wage in effect on the date the employee makes a claim for benefits.

Sec. 6. Minnesota Statutes 1984, section 268.04, subdivision 30, is amended to read:

Subd. 30. “Average weekly wage” means the quotient derived by divid-

ing the total wage credits earned by an individual from all employers in insured work in the base period by the number of credit weeks *or alternative credit weeks.*"

Page 7, line 12, after the comma, insert "*or failing that, 24 or more alternative credit weeks*"

Page 10, line 14, before the period, insert "*for claims based on credit weeks or \$40 for claims based on alternative credit weeks*"

Page 10, line 21, after "weeks" insert "*or alternative credit weeks*"

Page 10, line 23, before "18" insert "*at least*"

Page 10, lines 23 and 24, after "weeks" insert "*or alternative credit weeks*"

Page 10, after line 28, insert:

"Sec. 12. Minnesota Statutes 1984, section 268.071, subdivision 1, is amended to read:

Subdivision 1. [DEFINITIONS.] As used in this section, unless the context clearly requires otherwise:

(1) [EXTENDED BENEFIT PERIOD.] "Extended benefit period" means a period which

(a) Begins with the third week after a week for which there is a state "on" indicator; and

(b) Ends with either of the following weeks, whichever occurs later: The third week after the first week for which there is a state "off" indicator; or the 13th consecutive week of the period;

Provided, that no extended benefit period may begin before the 14th week following the end of a prior extended benefit period which was in effect with respect to this state.

(2) [STATE "ON" INDICATOR.] There is a "state 'on' indicator" for this state for a week if the commissioner determines, in accordance with the regulations of the United States secretary of labor, that for the period consisting of such week and the immediately preceding 12 weeks, the rate of insured unemployment (not seasonally adjusted) under this law

(a) equaled or exceeded 120 percent of the average of such rates for the corresponding 13 week period ending in each of the preceding two calendar years, and

(b) equaled or exceeded five percent.

The determination of whether there has been a state "on" indicator beginning any extended benefit period may be made as provided in clauses (a) and (b) above or a "state 'on' indicator" shall exist if the rate described in clause (b) equaled or exceeded six percent irrespective of whether the percentage requirement provided by clause (a) is met or exceeded.

(3) [STATE "OFF" INDICATOR.] There is a "state 'off' indicator" for this state for a week if, for the period consisting of such week and the immediately preceding 12 weeks, the rate of insured unemployment is less than six

percent and the requirements for a "state 'on' indicator" under clause (2) of this subdivision are not satisfied.

(4) [RATE OF INSURED UNEMPLOYMENT.] "Rate of insured unemployment," for purposes of clauses (2) and (3), means the percentage derived by dividing the average weekly number of individuals filing claims for regular benefits in this state for weeks of unemployment with respect to the most recent 13 consecutive week period, as determined by the commissioner on the basis of his reports to the United States secretary of labor, by the average monthly employment covered under this law for the first four of the most recent six completed calendar quarters ending before the end of such 13 week period.

(5) [REGULAR BENEFITS.] "Regular benefits" means benefits payable to an individual under this law or under any other state law (including benefits payable to federal civilian employees and to ex-servicemen pursuant to 5 U.S.C. chapter 85) other than extended benefits and additional benefits.

(6) [EXTENDED BENEFITS.] "Extended benefits" means benefits (including benefits payable to federal civilian employees and to ex-servicemen pursuant to 5 U.S.C. chapter 85) payable to an individual under the provisions of this section for weeks of unemployment in his eligibility period.

(7) [ADDITIONAL BENEFITS.] "Additional benefits" means benefits payable to exhaustees by reason of conditions of high unemployment or by reason of other special factors under the provisions of any state law.

(8) [ELIGIBILITY PERIOD.] "Eligibility period" of an individual means the period consisting of the weeks in his benefit year which begin in an extended benefit period and, if his benefit year ends within such extended benefit period, any weeks thereafter which begin in such period.

(9) [EXHAUSTEE.] "Exhaustee" means an individual who, with respect to any week of unemployment in his eligibility period:

(a) Has received, prior to such week, all of the regular benefits that were available to him under this law or any other state law (including dependents' allowances and benefits payable to federal civilian employees and ex-servicemen under 5 U.S.C. chapter 85) in his current benefit year that includes such week;

Provided, that, for the purposes of this paragraph, an individual shall be deemed to have received all of the regular benefits that were available to him although as a result of a pending appeal with respect to wage credits or, credit weeks, or *alternative credit weeks* that were not considered in the original monetary determination in his benefit year, he may subsequently be determined to be entitled to added regular benefits; or

(b) His benefit year having expired prior to such week, has no, or insufficient, wages and/or employment on the basis of which he could establish a new benefit year that would include such week or having established a benefit year that includes such week, he is precluded from receiving regular compensation by reason of: (i) a state law provision which meets the requirements of section 3304 (a) (7) of the Internal Revenue Code of 1954, or (ii) a disqualification determination which cancelled wage credits or totally reduced his benefit rights, or (iii) benefits are not payable by reason of a

seasonal limitation in a state unemployment insurance law; and

(c) Has no right to unemployment benefits or allowances, as the case may be, under the railroad unemployment insurance act, the trade expansion act of 1962, the automotive products act of 1965 and such other federal laws as are specified in regulations issued by the United States secretary of labor; and has not received and is not seeking unemployment benefits under the unemployment compensation law of Canada; but if he is seeking such benefits and the appropriate agency finally determines that he is not entitled to benefits under such law he is considered an exhaustee.

(10) [STATE LAW.] "State law" means the unemployment insurance law of any state, approved by the United States secretary of labor under section 3304 of the Internal Revenue Code of 1954."

Page 13, line 12, after "weeks" insert "*or alternative credit weeks*"

Page 20, after line 6, insert:

"Sec. 18. Minnesota Statutes 1984, section 268.09, is amended by adding a subdivision to read:

Subd. 2a. An individual who has qualified for benefits under the alternative credit week requirement, as provided under section 268.07, subdivision 2, and who is disqualified for benefits under subdivisions 1 and 2 of this section, other than for gross misconduct, shall be disqualified for waiting week credit and benefits. The disqualification shall continue until eight weeks have elapsed following the separation or refusal of suitable work or reemployment and until the individual has worked for a minimum of 20 hours in each of eight weeks in insured work.

Sec. 19. Minnesota Statutes 1984, section 268.10, subdivision 1, is amended to read:

Subdivision 1. [FILING.] Claims for benefits shall be made in accordance with such regulations as the commissioner may prescribe. Each employer shall post and maintain printed statements of such regulations in places readily accessible to individuals in his service and shall make available to each such individual at the time he becomes unemployed, a printed statement of such regulations. Such printed statements shall be supplied by the commissioner to each employer without cost to him.

(1) Any employer upon separation of an employee from his employment for any reason which may result in disqualification for benefits under section 268.09, shall furnish to such employee a separation notice which shall provide the employer's name, address, and employer account number as registered with the department, the employee's name and social security account number, the inclusive dates of his employment, and the reason for the separation. A copy of such separation notice shall be filed with the commissioner within seven days of such separation. The commissioner shall require each individual filing a claim for benefits to establish a benefit year to furnish the reason for separation from all employers in his base period.

(2) Upon the filing, by an individual, of a claim for benefits, the commissioner shall give notice to all such base period employers of the filing of such claim and request each such base period employer, within seven days after the mailing of such notice, to furnish the following information:

- (a) The total wage credits earned in the base period;
 - (b) The number of credit weeks *or alternative credit weeks* which end within the base period;
 - (c) The week ending dates for each calendar week within the base period in which the individual earned less than the amount required to make a credit week and the amount of earnings in each such week;
 - (d) The reason for the separation or separations of such individual from the employ of the employer in the base period; and
 - (e) Such employer's protest, if any, relating to the ineligibility or disqualification of such individual.
- (3) If any base period employer, after the notice of filing of a claim and the request for wage and separation information has been duly mailed to his last known address, fails to file information as provided by items (a) through (e) of clause 2 of this subdivision within seven days, the commissioner shall:

(a) Determine the validity of an individual's claim based on the claimant's statements or any other available information. An employer shall be liable for a late filing fee of not less than \$5 nor more than \$25, as the commissioner may determine, to be paid to the department of economic security and credited to the contingent fund if he has failed without good cause to submit the wage and separation information as required in clause 2 of this subdivision within seven days after the request has been duly mailed to his last known address. In the absence of fraud, if a redetermination of validity of claim based on an employer's late report subsequently cancels or reduces the amount of benefits to which a claimant was entitled under the initial determination, the claimant shall not be required to make repayment to the fund of any benefits paid to him prior to such redetermination; and

(b) Determine any issue of disqualification raised by clause (1) or by an employer's late report. If an employer fails to file a separation notice within the time limits prescribed in clause (1), any relief from benefit charges provided by section 268.09, subdivision 1, clause (4), shall apply to weeks of unemployment beginning after the filing of the late report.

Sec. 20. Minnesota Statutes 1984, section 268.10, subdivision 2, is amended to read:

Subd. 2. [EXAMINATION OF CLAIMS; DETERMINATION; APPEAL.] (1) An official, designated by the commissioner, shall promptly examine each claim for benefits filed to establish a benefit year pursuant to this section, and, on the basis of the facts found, shall determine whether or not such claims are valid, and if valid, the weekly benefit amount payable, the maximum benefit amount payable during the benefit year, and the date the benefit year terminates, and this determination shall be known as the determination of validity. Notice of the determination of validity or any redetermination as provided for in clause (4) shall be promptly given the claimant and all other interested parties. If within the time limits for filing a protest an employer notifies the department that an individual's weekly benefit amount as determined under section 268.07 exceeds the individual's weekly wages earned with the employer, the individual's weekly benefit amount shall be the lesser of (1) the weekly benefit amount as determined

under section 268.07, or (2) the weekly benefit amount which is 50 percent of the quotient derived by dividing the total wage credits earned in the individual's base period credit weeks or *alternative credit weeks* from all employers in insured work by the number of base period credit weeks or *alternative credit weeks*. If within the time specified for the filing of wage and separation information as provided in subdivision 1, clause (2), the employer makes an allegation of disqualification or raises an issue of the chargeability to his account of benefits that may be paid on such claim, if the claim is valid, the issue thereby raised shall be promptly determined by said official and a notification of the determination delivered or mailed to the claimant and the employer. If an initial determination or an appeal tribunal decision or the commissioner's decision awards benefits, the benefits shall be paid promptly regardless of the pendency of any appeal period or any appeal or other proceeding which may thereafter be taken. Except as provided in clause (6), if an appeal tribunal decision modifies or reverses an initial determination awarding benefits, or if a commissioner's decision modifies or reverses an appeal decision awarding benefits, any benefits paid under the award of such initial determination or appeal tribunal decision shall be deemed erroneous payments.

(2) At any time within 24 months from the date of the filing of a valid claim for benefits by an individual, an official of the department or any interested party or parties raises an issue of claimant's eligibility for benefits for any week or weeks in accordance with the requirements of the provisions of sections 268.03 to 268.24 or any official of the department or any interested party or parties or benefit year employer raises an issue of disqualification in accordance with the regulations of the commissioner, a determination shall be made thereon and a written notice thereof shall be given to the claimant and such other interested party or parties or benefit year employer. A determination issued under this clause which denies benefits for weeks for which the claimant has previously been paid benefits is an overpayment of those benefits subject to section 268.18.

(3) A determination issued pursuant to clauses (1) and (2) shall be final unless an appeal therefrom is filed by a claimant or employer within 15 days after the mailing of the notice of the determination to his last known address or personal delivery of the notice. Every notice of determination shall contain a prominent statement indicating in clear language the method of appealing the determination, the time within which such an appeal must be made, and the consequences of not appealing the determination. A timely appeal from a determination of validity in which the issue is whether an employing unit is an employer within the meaning of this chapter or whether services performed for an employer constitute employment within the meaning of this chapter shall be subject to the provisions of section 268.12, subdivision 13.

(4) At any time within 24 months from the date of the filing of a valid claim for benefits by an individual, the commissioner on his own motion may reconsider a determination of validity made thereon and make a redetermination thereof if he finds that an error in computation or identity or the crediting of wage credits has occurred in connection therewith or if the determination was made as a result of a nondisclosure or misrepresentation of a material fact. A determination or redetermination issued under this clause which denies benefits for weeks for which the claimant has previously been

paid benefits is an overpayment of those benefits subject to section 268.18.

(5) However, the commissioner may in his discretion refer any disputed claims directly to a referee for hearing and determination in accordance with the procedure outlined in subdivision 3 and the effect and status of such determination in such a case shall be the same as though the matter had been determined upon an appeal to the tribunal from an initial determination.

(6) If a referee's decision affirms an initial determination awarding benefits or the commissioner affirms an appeal tribunal decision awarding benefits, the decision, if finally reversed, shall not result in a disqualification and benefits paid shall neither be deemed overpaid nor shall they be considered in determining any individual employer's future contribution rate under section 268.06."

Page 21, delete lines 29 to 32 and insert:

"Sections 1, 13, 14, 15, 16, 17, 21, 22, 23, and 24 are effective the day following final enactment. Sections 2, 4, 5, 6, 10, 11, 12, 18, 19, and 20 are effective July 1, 1986. Sections 3, 8, and 9 are effective January 1, 1987."

Renumber the sections in sequence

Amend the title accordingly

The motion prevailed. So the amendment to the amendment was adopted.

Mr. Bernhagen moved to amend the Wegscheid amendment to S.F. No. 2114, adopted by the Senate March 11, 1986, as follows:

Page 5, line 36, after "unemployment" insert "(1)"

Page 6, line 6, before the period, insert *" , or (2) that is directly caused by a fire, flood, or act of God where 70 percent or more of the employees employed in the affected location become unemployed as a result and the employer substantially reopens its operations in that same area within 360 days of the fire, flood, or act of God. Benefits shall be charged to the employer's account where the unemployment is caused by the willful act of the employer or a person acting on behalf of the employer"*

Page 21, line 29, delete "4"

Page 21, line 31, after the period, insert *"Section 7 is effective retroactively to January 1, 1986."*

The motion prevailed. So the amendment to the amendment was adopted.

The question recurred on the Wegscheid amendment, as amended.

The roll was called, and there were yeas 34 and nays 33, as follows:

Those who voted in the affirmative were:

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

Those who voted in the negative were:

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

The motion prevailed. So the Wegscheid amendment, as amended, was adopted.

S.F. No. 2114 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 34 and nays 33, as follows:

Those who voted in the affirmative were:

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

Those who voted in the negative were:

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

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

MOTIONS AND RESOLUTIONS - CONTINUED

Mr. Luther moved that H.F. No. 1950 be taken from the table. The motion prevailed.

CALL OF THE SENATE

Mr. Luther imposed a call of the Senate for the balance of the proceedings on H.F. No. 1950. The Sergeant at Arms was instructed to bring in the absent members.

H.F. No. 1950: A bill for an act relating to civil liability; limiting the liability of practitioners for the violent acts of patients; providing immunity to municipalities for certain claims that occur as a result of the use of parks and recreation areas; providing for the manner of claiming punitive damages in civil actions; amending Minnesota Statutes 1984, sections 466.03, by adding a subdivision; 549.20, by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapter 148.

Mr. Luther moved that H.F. No. 1950 be laid on the table. The motion prevailed.

SPECIAL ORDER

The question recurred on S.F. No. 1912.

S.F. No. 1912: A bill for an act relating to intoxicating liquor; authorizing the city of Vadnais Heights to issue up to five additional on-sale licenses.

Mr. Johnson, D.E. moved to amend S.F. No. 1912 as follows:

Page 1, after line 11, insert:

“Sec. 2. [POPE COUNTY; SEASONAL ON-SALE LICENSE.]

In addition to any other licenses authorized by law the county board of Pope county may issue one seasonal on-sale intoxicating liquor license to a resort located on Lake Minnewaska. The fee for the license, which shall be valid for a specified period not exceeding six months, shall be set by the county board. All other provisions of Minnesota Statutes, chapter 340A governing the issuance of licenses and the sale of intoxicating liquor shall apply to a license issued pursuant to this section.”

Page 1, line 14, after “council” insert “. Section 2 is effective upon approval by the Pope county board.” and delete “and” and insert “Both sections are effective upon”

Renumber the sections in sequence

Amend the title accordingly

The motion prevailed. So the amendment was adopted.

Mr. Waldorf moved to amend S.F. No. 1912 as follows:

Page 1, after line 6, insert:

“Section 1. Minnesota Statutes 1985 Supplement, section 340A.312, is amended to read:

340A.312 [JOINT PURCHASES; VOLUME PRICES.]

Subdivision 1. [JOINT PURCHASES.] The joint purchase by two or more licensed retailers of up to 300, 1.75 liter or smaller, bottles of distilled spirits or wine for resale to the public is lawful.

Subd. 2. [VOLUME PRICES.] A variable volume price offered by a wholesaler to a licensed retailer on sales of distilled spirits or wine may not be for a quantity of more than 300 one-liter or smaller bottles is lawful.”

Page 1, line 13, delete “1” and insert “2”

Renumber the sections in sequence

Amend the title as follows:

Page 1, line 2, after the semicolon, insert “eliminating the restrictions for joint purchases and volume discounts;”

Page 1, line 4, before the period, insert “; amending Minnesota Statutes 1985 Supplement, section 340A.312”

Mr. Dieterich questioned whether the amendment was germane.

The President ruled that the amendment was not germane.

S.F. No. 1912 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 2, as follows:

Those who voted in the affirmative were:

Adkins	Dicklich	Knaak	Olson	Renneke
Anderson	Diessner	Knutson	Pehler	Samuelson
Belanger	Frank	Kronebusch	Peterson, D.C.	Schmitz
Benson	Frederickson	Laidig	Peterson, D.L.	Sieloff
Berg	Gustafson	Lantry	Peterson, R.W.	Spear
Bernhagen	Hughes	Luther	Petty	Storm
Bertram	Isackson	McQuaid	Pogemiller	Stumpf
Dahl	Johnson, D.E.	Mehrkins	Purfeerst	Taylor
Davis	Jude	Moe, R.D.	Ramstad	Waldorf
DeCramer	Kamrath	Novak	Reichgott	Willet

Messrs. Chmielewski and Dieterich voted in the negative.

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

MOTIONS AND RESOLUTIONS - CONTINUED

Mr. Luther moved that H.F. No. 1950 be taken from the table. The motion prevailed.

H.F. No. 1950: A bill for an act relating to civil liability; limiting the liability of practitioners for the violent acts of patients; providing immunity to municipalities for certain claims that occur as a result of the use of parks and recreation areas; providing for the manner of claiming punitive damages in civil actions; amending Minnesota Statutes 1984, sections 466.03, by adding a subdivision; 549.20, by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapter 148.

Mr. Luther moved to amend the Peterson, R.W. amendment to H.F. No. 1950, adopted by the Senate March 11, 1986, as follows:

Page 1 of the amendment, delete lines 22 to 25

Page 2 of the amendment, delete lines 1 to 4, 8 to 10, and 13 and 14

Mr. Sieloff moved that H.F. No. 1950 be laid on the table.

CALL OF THE SENATE

Mr. Luther imposed a call of the Senate for the balance of the proceedings on H.F. No. 1950. The Sergeant at Arms was instructed to bring in the absent members.

The question was taken on the adoption of the motion of Mr. Sieloff.

Mr. Moe, R.D. moved that those not voting be excused from voting. The motion prevailed.

The roll was called, and there were yeas 27 and nays 36, as follows:

Those who voted in the affirmative were:

Adkins	Chmielewski	Kamrath	Mehrkins	Storm
Anderson	Frederick	Knaak	Olson	Taylor
Belanger	Frederickson	Knutson	Peterson, D.L.	Waldorf
Benson	Gustafson	Kronebusch	Ramstad	
Bernhagen	Isackson	Laidig	Renneke	
Brataas	Johnson, D.E.	McQuaid	Sieloff	

Those who voted in the negative were:

Berglin	Frank	Luther	Peterson, D.C.	Spear
Bertram	Freeman	Merriam	Peterson, R.W.	Stumpf
Dahl	Hughes	Moe, D.M.	Petty	Wegscheid
Davis	Jude	Moe, R.D.	Pogemiller	Willet
DeCramer	Kroening	Nelson	Purfeerst	
Dicklich	Langseth	Novak	Reichgott	
Diessner	Lantry	Pehler	Samuelson	
Dieterich	Lessard	Peterson, C.C.	Schmitz	

The motion did not prevail.

The question recurred on the adoption of the Luther amendment to the Peterson, R.W. amendment.

The roll was called, and there were yeas 33 and nays 32, as follows:

Those who voted in the affirmative were:

Berglin	Freeman	Luther	Peterson, D.C.	Solon
Dahl	Hughes	Moe, D.M.	Peterson, R.W.	Spear
DeCramer	Jude	Moe, R.D.	Petty	Stumpf
Dicklich	Kroening	Nelson	Pogemiller	Vega
Diessner	Langseth	Novak	Purfeerst	Willet
Dieterich	Lantry	Pehler	Reichgott	
Frank	Lessard	Peterson, C.C.	Schmitz	

Those who voted in the negative were:

Adkins	Brataas	Johnson, D.E.	Mehrrens	Storm
Anderson	Chmielewski	Kamrath	Olson	Taylor
Belanger	Davis	Knaak	Peterson, D.L.	Waldorf
Benson	Frederick	Knutson	Ramstad	Wegscheid
Berg	Frederickson	Kronebusch	Renneke	
Bernhagen	Gustafson	Laidig	Samuelson	
Bertram	Isackson	McQuaid	Sieloff	

The motion prevailed. So the amendment to the amendment was adopted.

Mr. Kamrath moved to amend H.F. No. 1950, as amended pursuant to Rule 49, adopted by the Senate March 11, 1986, as follows:

(The text of the amended House File is identical to S.F. No. 1727.)

Pages 55 and 56, delete sections 80 and 81 and insert:

“Sec. 80. Minnesota Statutes 1984, section 604.02, is amended to read:

604.02 [APPORTIONMENT OF DAMAGES.]

Subdivision 1: When two or more persons are jointly liable, contributions to awards shall be in proportion to the percentage of fault attributable to each, except that each *person whose percentage of fault is greater than 50 percent* is jointly and severally liable for the whole award.

Subd. 2. Upon motion made not later than one year after judgment is entered, the court shall determine whether all or part of a party's equitable share of the obligation is uncollectible from that party and shall reallocate any uncollectible amount among the other parties *whose percentage of fault is greater than 50 percent*, including a claimant at fault, according to their respective percentages of fault. A party whose liability is reallocated is nonetheless subject to contribution and to any continuing liability to the claimant on the judgment.

Subd. 3. In the case of a claim arising from the manufacture, sale, use or

consumption of a product, an amount uncollectible from any person in the chain of manufacture and distribution shall be reallocated among all other persons in the chain of manufacture and distribution whose percentage of fault is greater than 50 percent but not among the claimant or others at fault who are not in the chain of manufacture or distribution of the product. ~~Provided, however, that a person whose fault is less than that of a claimant is liable to the claimant only for that portion of the judgment which represents the percentage of fault attributable to him.~~

Subd. 4. [DEFINITION.] For purposes of this section, "person" includes a municipality as defined in section 466.01."

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

The question was taken on the adoption of the amendment.

The roll was called, and there were yeas 27 and nays 36, as follows:

Those who voted in the affirmative were:

Adkins	Chmielewski	Kamrath	Mehrrens	Sieloff
Anderson	Davis	Knaak	Olson	Storm
Belanger	Frederickson	Kronebusch	Peterson, D.L.	Taylor
Benson	Gustafson	Laidig	Ramstad	
Bernhagen	Isackson	Lessard	Renneke	
Brataas	Johnson, D.E.	McQuaid	Samuelson	

Those who voted in the negative were:

Berg	Frederick	Luther	Peterson, R.W.	Stumpf
Berglin	Freeman	Merriam	Petty	Vega
Bertram	Hughes	Moe, D.M.	Pogemiller	Waldorf
Dahl	Jude	Moe, R.D.	Purfeerst	Willet
DeCramer	Knutson	Nelson	Reichgott	
Dicklich	Kroening	Novak	Schmitz	
Dieterich	Langseth	Pehler	Solon	
Frank	Lantry	Peterson, C.C.	Spear	

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

Mr. Benson moved to amend H.F. No. 1950, as amended pursuant to Rule 49, adopted by the Senate March 11, 1986, as follows:

(The text of the amended House File is identical to S. F. No. 1727.)

Page 31, after line 27, insert:

"Sec. 42. [621.21] [ACTIVATION OF MARKET ASSISTANCE PLAN AND JOINT UNDERWRITING ASSOCIATION.]

At any time the commissioner of commerce deems it necessary to provide assistance with respect to the placement of general liability insurance coverage on Minnesota risks for a class of business, the commissioner shall prepare a written petition, requesting that a hearing be held to determine whether activation of the market assistance plan and the joint underwriting association is necessary. A hearing must be held in accordance with section 43. The commissioner by order shall deactivate a market assistance program and the joint underwriting association at any time the commissioner finds that the market assistance program and the joint underwriting association are not necessary.

Sec. 43. [621.22] [HEARING.]

Subdivision 1. [ADMINISTRATIVE LAW JUDGE.] The commissioner shall forward a copy of the petition to activate the market assistance plan and the joint underwriting association with respect to a class of business to the chief administrative law judge. The chief administrative law judge shall, within three business days of receipt of the copy of the petition, set a hearing date, assign an administrative law judge to hear the matter, and notify the commissioner of the hearing date and the administrative law judge assigned to hear the matter. The hearing date must be no less than 60 days nor more than 90 days from the date of receipt of the petition by the chief administrative law judge.

Subd. 2. [NOTICE.] The commissioner of commerce shall publish notice of the hearing in the state register at least 30 days before the hearing date. The notice should be that used for rulemaking under chapter 14. Approval by the administrative law judge of the notice prior to publication is not required.

Subd. 3. [CONTESTED CASE; REPORT.] The hearing and all matters after the hearing are a contested case under chapter 14. Within 45 days from the commencement of the hearing and within 15 days of the completion of the hearing the administrative law judge shall submit a report to the commissioner of commerce. The parties, or the administrative law judge, if the parties cannot agree, shall adjust all time requirements under the contested case procedure to conform with the 45-day requirement.

Subd. 4. [DECISION.] The commissioner shall make a decision within ten days of the receipt of the administrative law judge's report.

Subd. 5. [WAIVER OR MODIFICATION.] If all parties to the proceeding agree, any of the requirements of this section may be waived or modified."

Renumber the sections in sequence

Correct the internal references

Amend the title accordingly

The question was taken on the adoption of the amendment.

The roll was called, and there were yeas 38 and nays 27, as follows:

Those who voted in the affirmative were:

Adkins	Dahl	Jude	Merriam	Schmitz
Anderson	Davis	Kamrath	Olson	Sietoff
Belanger	DeCramer	Knaak	Peterson, D.L.	Storm
Benson	Frederick	Knutson	Petty	Taylor
Berg	Frederickson	Kronebusch	Purfeerst	Waldorf
Bernhagen	Gustafson	Laidig	Ramstad	Wegscheid
Brataas	Isackson	McQuaid	Renneke	
Chmielewski	Johnson, D.E.	Mehrkens	Samuelson	

Those who voted in the negative were:

Berglin	Freeman	Luther	Peterson, C.C.	Spear
Bertram	Hughes	Moe, D.M.	Peterson, D.C.	Stumpf
Dicklich	Kroening	Moe, R.D.	Peterson, R.W.	Willet
Diessner	Langseth	Nelson	Pogemiller	
Dietrich	Lantry	Novak	Reichgott	
Frank	Lessard	Pehler	Solon	

The motion prevailed. So the amendment was adopted.

RECONSIDERATION

Having voted on the prevailing side, Mr. Pehler moved that the vote whereby the second Kamrath amendment to H.F. No. 1950 was adopted on March 11, 1986, be now reconsidered.

The question was taken on the adoption of the motion.

The roll was called, and there were yeas 34 and nays 24, as follows:

Those who voted in the affirmative were:

Berglin	Freeman	Luther	Peterson, D.C.	Solon
Bertram	Hughes	Merriam	Peterson, R.W.	Spear
Dahl	Jude	Moe, D.M.	Petty	Stumpf
Dicklich	Kroening	Moe, R.D.	Pogemiller	Waldorf
Diessner	Langseth	Novak	Purfeerst	Wegscheid
Dieterich	Lantry	Pehler	Reichgott	Willet
Frank	Lessard	Peterson, C.C.	Schmitz	

Those who voted in the negative were:

Anderson	DeCramer	Johnson, D.E.	McQuaid	Samuelson
Belanger	Frederick	Kamrath	Mehrrens	Sieloff
Bernhagen	Frederickson	Knutson	Peterson, D.L.	Storm
Brataas	Gustafson	Kronebusch	Ramstad	Taylor
Davis	Isackson	Laidig	Renneke	

The motion prevailed. So the vote was reconsidered.

The question recurred on the adoption of the second Kamrath amendment.

The roll was called, and there were yeas 33 and nays 33, as follows:

Those who voted in the affirmative were:

Adkins	Davis	Kamrath	Mehrrens	Sieloff
Anderson	DeCramer	Knaak	Olson	Storm
Belanger	Frederick	Knutson	Pehler	Taylor
Benson	Frederickson	Kronebusch	Peterson, D.L.	Waldorf
Bernhagen	Gustafson	Laidig	Ramstad	Wegscheid
Brataas	Isackson	Langseth	Renneke	
Chmielewski	Johnson, D.E.	McQuaid	Samuelson	

Those who voted in the negative were:

Berg	Frank	Lessard	Peterson, D.C.	Solon
Berglin	Freeman	Luther	Peterson, R.W.	Spear
Bertram	Hughes	Merriam	Petty	Stumpf
Dahl	Johnson, D.J.	Moe, D.M.	Pogemiller	Vega
Dicklich	Jude	Moe, R.D.	Purfeerst	Willet
Diessner	Kroening	Novak	Reichgott	
Dieterich	Lantry	Peterson, C.C.	Schmitz	

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

Mr. Sieloff moved to amend H.F. No. 1950, as amended pursuant to Rule 49, adopted by the Senate March 11, 1986, as follows:

(The text of the amended House File is identical to S.F. No. 1727.)

Pages 55 and 56, delete sections 80 and 81 and insert:

“Sec. 80. Minnesota Statutes 1984, section 604.02, is amended to read:

604.02 [APPORTIONMENT OF DAMAGES.]

Subdivision 1. When two or more persons are jointly liable, contributions to awards shall be in proportion to the percentage of fault attributable to each, except that each is jointly and severally liable for the whole award.

Subd. 2. Upon motion made not later than one year after judgment is entered, the court shall determine whether all or part of a party's equitable share of the obligation is uncollectible from that party and shall reallocate any uncollectible amount among the other parties, including a claimant at fault, according to their respective percentages of fault. A party whose liability is reallocated is nonetheless subject to contribution and to any continuing liability to the claimant on the judgment.

Subd. 3. In the case of a claim arising from the manufacture, sale, use or consumption of a product, an amount uncollectible from any person in the chain of manufacture and distribution shall be reallocated among all other persons in the chain of manufacture and distribution but not among the claimant or others at fault who are not in the chain of manufacture or distribution of the product. Provided, however, that a person whose fault is less than that of a claimant is liable to the claimant only for that portion of the judgment which represents the percentage of fault attributable to him. [DEFINITION.] For purposes of this section, "person" includes a municipality as defined in section 466.01."

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

The question was taken on the adoption of the amendment.

The roll was called, and there were yeas 26 and nays 41, as follows:

Those who voted in the affirmative were:

Adkins	Brataas	Johnson, D.E.	Mehrkens	Storm
Anderson	Chmielewski	Kamrath	Olson	Taylor
Belanger	Frederick	Knutson	Peterson, D.L.	
Benson	Frederickson	Kronebusch	Ramstad	
Berg	Gustafson	Laidig	Renneke	
Bernhagen	Isackson	McQuaid	Sieloff	

Those who voted in the negative were:

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

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

H.F. No. 1950 was read the third time, as amended, and placed on its final passage.

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

The roll was called, and there were yeas 59 and nays 8, as follows:

Those who voted in the affirmative were:

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

Those who voted in the negative were:

Adkins	Belanger	Gustafson	Storm	Waldorf
Anderson	Chmielewski	Mehrkens		

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

MEMBERS EXCUSED

Mr. Freeman was excused from the Session of today from 7:00 to 8:15 p.m. Mr. Gustafson was excused from the Session of today from 7:00 to 8:15 p.m.

ADJOURNMENT

Mr. Moe, R.D. moved that the Senate do now adjourn until 10:00 a.m., Wednesday, March 12, 1986. The motion prevailed.

Patrick E. Flahaven, Secretary of the Senate