

THIRTY-FOURTH DAY

St. Paul, Minnesota, Wednesday, April 15, 1987

The Senate met at 12:00 noon and was called to order by the President.

CALL OF THE SENATE

Mr. Frank 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. Kenneth L. O'Hotto.

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

Adkins	Dahl	Jude	Metzen	Renneke
Anderson	Davis	Knaak	Moe, D.M.	Samuelson
Beckman	DeCramer	Knutson	Moe, R.D.	Schmitz
Belanger	Dicklich	Kroening	Morse	Solon
Benson	Diessner	Laidig	Novak	Spear
Berg	Frank	Langseth	Olson	Storm
Berglin	Frederick	Lantry	Pehler	Stumpf
Bernhagen	Frederickson, D.J.	Larson	Peterson, D.C.	Taylor
Bertram	Frederickson, D.R.	Luther	Peterson, R.W.	Vickerman
Braundl	Freeman	Marty	Piper	Waldorf
Brataas	Gustafson	McQuaid	Pogemiller	Wegscheid
Chmielewski	Hughes	Mehrkens	Ramstad	Willet
Cohen	Johnson, D.J.	Merriam	Reichgott	

The President declared a quorum present.

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

EXECUTIVE AND OFFICIAL COMMUNICATIONS

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

January 13, 1986

The Honorable Jerome M. Hughes
President of the Senate

Dear Sir:

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

Helen M. Johnson, 408 N. Cherry, Braham, Isanti County, has been appointed by me, effective January 17, 1986, for a term expiring the first Monday in January, 1990.

(Referred to the Committee on Education.)

Sincerely,

Rudy Perpich, Governor

April 9, 1987

The Honorable Jerome M. Hughes
President of the Senate

Dear Sir:

I have the honor of informing you that I have received, approved, signed and deposited in the Office of the Secretary of State, S.F. Nos. 117, 245 and 499.

Sincerely,

Rudy Perpich, Governor

April 10, 1987

The Honorable Fred C. Norton
Speaker of the House of Representatives

The Honorable Jerome M. Hughes
President of the Senate

I have the honor to inform you that the following enrolled Acts of the 1987 Session of the State Legislature have been received from the Office of the Governor and are deposited in the Office of the Secretary of State for preservation, pursuant to the State Constitution, Article IV, Section 23:

S.F. No.	H.F. No.	Session Laws Chapter No.	Date Approved 1987	Date Filed 1987
	1	15	April 7	April 7
	127	16	April 7	April 7
	166	17	April 7	April 7
	364	18	April 7	April 7
97		19	April 7	April 7
137		20	April 7	April 7
306		21	April 7	April 7
529		22	April 7	April 7
653		Res. No. 3		April 7
	737	Res. No. 4		April 9
	369	23	April 9	April 9
117		24	April 9	April 9
245		25	April 9	April 9
499		26	April 9	April 9

Sincerely,

Joan Anderson Growe
Secretary of State

MESSAGES FROM THE HOUSE

Mr. President:

I have the honor to announce the adoption by the House of the following House Concurrent Resolution, herewith transmitted:

House Concurrent Resolution No. 9: A House 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.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted April 13, 1987

Mr. Moe, R.D. moved that House Concurrent Resolution No. 9 be laid on the table. 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. 440: A bill for an act relating to statutes; removing certain substantive gender references in Minnesota Statutes; amending Minnesota Statutes 1986, sections 13.83, subdivision 2; 88.11, subdivision 1; 176.111, subdivisions 3, 15, and 21; 218.021, subdivision 2; 252.07; 315.44; 315.48; 353.01, subdivision 2b; 358.14; 387.15; 387.16; 540.05; 548.06; 593.01, subdivision 1; 631.412; 641.06; 641.14; and 642.08; repealing Minnesota Statutes 1986, sections 176.011, subdivision 13; 315.49; 382.17; 459.16; and 593.02.

Senate File No. 440 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned April 13, 1987

CONCURRENCE AND REPASSAGE

Ms. Piper moved that the Senate concur in the amendments by the House to S.F. No. 440 and that the bill be placed on its repassage as amended. The motion prevailed.

S.F. No. 440: A bill for an act relating to statutes; removing certain substantive gender references in Minnesota Statutes; amending Minnesota Statutes 1986, sections 13.83, subdivision 2; 88.11, subdivision 1; 176.111, subdivisions 15 and 21; 218.021, subdivision 2; 252.07; 315.44; 315.48; 353.01, subdivision 2b; 358.14; 387.15; 387.16; 540.05; 548.06; 593.01, subdivision 1; 631.412; 641.06; 641.14; and 642.08; repealing Minnesota Statutes 1986, sections 176.011, subdivision 13; 315.49; 382.17; and 593.02.

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 63 and nays 0, as follows:

Those who voted in the affirmative were:

Adkins	Dahl	Jude	Metzen	Samuelson
Anderson	Davis	Knaak	Moe, D.M.	Schmitz
Beckman	DeCramer	Kroening	Moe, R.D.	Solon
Belanger	Dicklich	Laidig	Morse	Spear
Benson	Diessner	Langseth	Novak	Storm
Berg	Frank	Lantry	Olson	Stumpf
Berglin	Frederick	Larson	Pehler	Taylor
Bernhagen	Frederickson, D.J.	Lessard	Peterson, D.C.	Vickerman
Bertram	Frederickson, D.R.	Luther	Peterson, R.W.	Waldorf
Brandl	Freeman	Marty	Piper	Wegscheid
Brataas	Gustafson	McQuaid	Pogemiller	Willet
Chmielewski	Hughes	Mehrkens	Ramstad	
Cohen	Johnson, D.J.	Merriam	Renneke	

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. 200, 308, 332, 234, 1077, 1159, 1042, 1207, 1223, 1083, 1390 and 1416.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted April 13, 1987.

Mr. President:

I have the honor to announce the passage by the House of the following House Files, herewith transmitted: H.F. Nos. 404, 499, 534, 556, 643, 677, 772, 823, 836, 983, 1028, 1127, 1224, 839, 924 and 948.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted April 14, 1987

FIRST READING OF HOUSE BILLS

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

H.F. No. 200: A bill for an act relating to abuse and neglect reporting; providing a standard for the disclosure of a reporter's name under the child abuse reporting act and the vulnerable adults reporting act; amending Minnesota Statutes 1986, sections 626.556, subdivision 11; and 626.557, subdivision 12.

Referred to the Committee on Rules and Administration for comparison with S.F. No. 424, now on the Calendar.

H.F. No. 308: A bill for an act relating to crimes; including live performances in the statute regulating exposure of minors to sexually provocative material; amending Minnesota Statutes 1986, sections 617.291; and 617.294.

Referred to the Committee on Judiciary.

H.F. No. 332: A bill for an act relating to environment; authorizing the pollution control agency to issue administrative orders assessing penalties; establishing a hearing procedure; providing for the distribution and expenditure of monetary penalties; proposing coding for new law in Minnesota Statutes, chapter 116.

Referred to the Committee on Environment and Natural Resources.

H.F. No. 234: A bill for an act relating to employment; establishing unpaid leave of absences for new parents; setting conditions on return from leave; creating a cause of action; prohibiting cost of parental leave from increasing unemployment insurance experience rating; amending Minnesota Statutes 1986, section 268.06, subdivision 5; proposing coding for new law in Minnesota Statutes, chapter 181.

Referred to the Committee on Employment.

H.F. No. 1077: A bill for an act relating to retirement; conforming mandatory retirement provisions for public employees to the federal Age Discrimination in Employment Amendments of 1986; amending Minnesota Statutes 1986, sections 43A.34, subdivisions 1 and 4; 181.81, subdivision 1; 181.811; 354.44, subdivision 1a; 354A.21; 422A.09, subdivision 3; and 423.076; repealing Minnesota Statutes 1986, sections 43A.34, subdivision 2; 125.12, subdivision 5; and 473.419.

Referred to the Committee on Governmental Operations.

H.F. No. 1159: A bill for an act relating to retirement; public pension plan or fund assets; prohibiting certain transfers or uses of assets; proposing coding for new law in Minnesota Statutes, chapter 356.

Referred to the Committee on Governmental Operations.

H.F. No. 1042: A bill for an act relating to motor carriers; exempting drivers of intrastate charter carriers from having in possession a medical examiner certificate if the driver has a school bus endorsement; amending Minnesota Statutes 1986, section 221.031, by adding a subdivision.

Referred to the Committee on Rules and Administration for comparison with S.F. No. 988.

H.F. No. 1207: A bill for an act relating to real property; altering certain redemption periods; amending Minnesota Statutes 1986, section 580.23, subdivision 2.

Referred to the Committee on Agriculture.

H.F. No. 1223: A bill for an act relating to Morrison county; removing special qualifications for newspapers; repealing Laws 1980, chapter 526.

Referred to the Committee on Local and Urban Government.

H.F. No. 1083: A bill for an act relating to government liability; authorizing municipal insurers to settle tort claims; clarifying that instrumentalities of municipalities incorporated as nonprofit corporations may be included in the self insurance pool; amending Minnesota Statutes 1986, sections 466.06; 466.08; and 471.98, subdivision 2.

Referred to the Committee on Judiciary.

H.F. No. 1390: A bill for an act relating to utilities; providing for representation of small business by attorney general in certain proceedings relating to utility rates, service, and other matters; amending Minnesota

Statutes 1986, section 8.33.

Referred to the Committee on Public Utilities and Energy.

H.F. No. 1416: A bill for an act relating to the city of Minneapolis; providing for the appointment of the director of the office of emergency preparedness; amending Laws 1969, chapter 937, section 1, by adding a subdivision.

Referred to the Committee on Local and Urban Government.

H.F. No. 404: A bill for an act relating to railroads; providing for designation of exempt railroad grade crossings; requiring stop signs at railroad grade crossings; amending Minnesota Statutes 1986, sections 169.28; and 219.20.

Referred to the Committee on Transportation.

H.F. No. 499: A bill for an act relating to metropolitan government; changing the treatment of current value credits and modifying the cost allocation system of the metropolitan waste control commission; providing for a reserve fund for the commission; authorizing appointment of advisory committees by the commission; authorizing an implementation period for transition to a new cost allocation system; amending Minnesota Statutes 1986, sections 473.511, subdivision 4; and 473.517, subdivisions 1, 2, 3, and 9; repealing Minnesota Statutes 1986, section 473.517, subdivisions 4, 5, and 7.

Referred to the Committee on Rules and Administration for comparison with S.F. No. 348, now on the Calendar.

H.F. No. 534: 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 1986, sections 13.03, subdivision 3; 13.04, subdivision 2; 13.05, subdivision 4; 13.38; 13.39, subdivision 3; 13.41, subdivision 4; 13.43, by adding a subdivision; 13.46, subdivision 7, and by adding a subdivision; and 13.76; proposing coding for new law in Minnesota Statutes, chapter 13.

Referred to the Committee on Judiciary.

H.F. No. 556: A bill for an act relating to human services; establishing difficulty of care payments for children in foster care; amending Minnesota Statutes 1986, section 256.82, subdivision 3, and by adding a subdivision.

Referred to the Committee on Finance.

H.F. No. 643: A bill for an act relating to domestic abuse; prohibiting modification or vacation of certain orders for protection in a marriage dissolution proceeding; providing that certain actions are not violations of an order for protection; requiring written notice to respondents of penalties for violation of an order; requiring notice to peace officers; requiring recording of hearings; amending Minnesota Statutes 1986, sections 518.131, subdivision 2; and 518B.01, subdivisions 4, 6, 14, and by adding subdivisions.

Referred to the Committee on Rules and Administration for comparison with S.F. No. 539, now on General Orders.

H.F. No. 677: A bill for an act relating to education; requiring school districts to establish local literacy policies and standards for high school graduation; amending Minnesota Statutes 1986, section 126.66, by adding

a subdivision.

Referred to the Committee on Education.

H.F. No. 772: A bill for an act relating to retirement; establishing a voluntary retirement plan for certain qualified employees of public and private ambulance services; proposing coding for new law as Minnesota Statutes, chapter 353A.

Referred to the Committee on Governmental Operations.

H.F. No. 823: A bill for an act relating to labor; prohibiting certain terminations; requiring notice of reasons for terminations; providing a penalty; proposing coding for new law in Minnesota Statutes, chapter 181.

Referred to the Committee on Rules and Administration for comparison with S.F. No. 701, now on General Orders.

H.F. No. 836: A bill for an act relating to natural resources; revising the boundary of Lost River State Forest; amending Minnesota Statutes 1986, section 89.021, subdivision 59.

Referred to the Committee on Environment and Natural Resources.

H.F. No. 983: A bill for an act relating to education; adding post-secondary vocational technical representation to UFARS and ESV computer councils; clarifying certain duties of the state board of vocational technical education and the state director of vocational technical education; applying a consistent name to schools operating under standards of the state board of vocational technical education; amending Minnesota Statutes 1986, sections 15.014, subdivision 3; 120.05; 121.901, subdivision 1; 121.933; 121.934, subdivisions 1 and 2; 123.37, subdivision 1a; 126.12, subdivision 2; 136C.04, subdivision 12, and by adding a subdivision; and 136C.29, subdivision 5; repealing Minnesota Statutes 1986, sections 136C.32; and 136C.35.

Referred to the Committee on Rules and Administration for comparison with S.F. No. 929.

H.F. No. 1028: A bill for an act relating to labor; regulating mediation, fact finding, and other functions of the bureau of mediation services; providing for violations of the labor union democracy act; amending Minnesota Statutes 1986, sections 179.02, subdivision 2, and by adding a subdivision; 179.07; 179.08; 179.083; 179.22; 179.38; proposing coding for new law in Minnesota Statutes, chapter 179; repealing Minnesota Statutes 1986, sections 179.05; 179.23; and 179.24.

Referred to the Committee on Rules and Administration for comparison with S.F. No. 1110, now on the Calendar.

H.F. No. 1127: A bill for an act relating to utilities; providing for the establishment of flexible gas utility rates for certain customers subject to effective competition; requiring the department of public service to conduct a study; providing for recovery of study costs; proposing coding for new law in Minnesota Statutes, chapter 216B.

Referred to the Committee on Public Utilities and Energy.

H.F. No. 1224: A bill for an act relating to local government; permitting the establishment of a joint economic development authority in Cook county; authorizing a lodging tax in certain towns.

Referred to the Committee on Economic Development and Housing.

H.F. No. 839: A bill for an act relating to public safety; local emergency telephone service; requiring automatic location identification for public safety answering points; amending Minnesota Statutes 1986, section 403.02, subdivision 6, and by adding a subdivision.

Referred to the Committee on Rules and Administration for comparison with S.F. No. 783, now on the Calendar.

H.F. No. 924: A bill for an act relating to corrections; removing the Minnesota correctional industries from state competitive bidding requirements; amending Minnesota Statutes 1986, section 241.27, subdivision 2.

Referred to the Committee on Rules and Administration for comparison with S.F. No. 1159, now on General Orders.

H.F. No. 948: A bill for an act relating to state government; providing for affirmative action improvements; regulating job eligibility lists; providing for the title of state agency heads; giving the commissioner of health access to private or confidential data on individual state employees for purposes of epidemiologic studies; setting a mandatory age for certain employees and abolishing it for others; regulating hiring and personnel practices; amending Minnesota Statutes 1986, sections 15.06, subdivision 1; 15.46; 43A.08, subdivision 1; 43A.13, subdivisions 1 and 7; 43A.18, subdivision 4; 43A.191, subdivision 3; 43A.24, subdivision 2; 43A.30, subdivision 4; 43A.33, subdivision 3; 43A.34, subdivisions 1, 3, and 4; repealing Minnesota Statutes 1986, sections 15.45, subdivision 3; 15.47; and 43A.34, subdivision 2.

Referred to the Committee on Rules and Administration for comparison with S.F. No. 981, now on General Orders.

REPORTS OF COMMITTEES

Mr. Moe, R.D. moved that the Committee Reports at the Desk be now adopted, with the exception of the reports on S.F. Nos. 156, 1044 and 187. The motion prevailed.

Mr. Willet from the Committee on Environment and Natural Resources, to which was re-referred

S.F. No. 69: A bill for an act relating to agriculture; establishing a commercial fish raising program; proposing coding for new law in Minnesota Statutes, chapter 17.

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

Delete everything after the enacting clause and insert:

"Section 1. [17.50] [PROGRAM ESTABLISHMENT.]

The commissioner shall establish and promote a program for the commercial raising of fish in fish farms in consultation with an advisory committee consisting of the aquaculture section of the fish and wildlife division of the University of Minnesota, the commissioner of natural resources, representatives of private fish raising industry, and the chairs of the fish and wildlife subcommittees of the house of representatives and senate.

Sec. 2. Minnesota Statutes 1986, section 97A.475, is amended by adding a subdivision to read:

Subd. 29a. [FISH FARMS.] The fees for the following licenses to be issued to residents and nonresidents are:

- (1) for a fish farm, \$250; and*
- (2) to take sucker eggs from public waters for a fish farm, \$150, plus \$3 for each quart in excess of 100 quarts.*

Sec. 3. [97C.203] [DISPOSAL OF STATE HATCHERY EGGS OR FRY.]

(a) The commissioner shall dispose of game fish eggs and fry according to the following order of priorities:

- (1) distribution of fish eggs and fry to state hatcheries to hatch fry or raise fingerlings for stocking waters of the state for recreational fishing;*
- (2) sale of fish eggs and fry to private fish hatcheries to hatch fry or raise fingerlings to stock waters of this state with fingerlings for recreational fishing; and*
- (3) sale of fish eggs and fry to private fish hatcheries and fish farms to hatch fry or raise fingerlings for sale.*

(b) Until July 1, 1990, the commissioner must make at least two percent of the game fish eggs collected available to private hatcheries.

Sec. 4. [97C.209] [FISH FARMS.]

Subdivision 1. [LICENSE REQUIRED.] A person may not operate a fish farm without a fish farm license. A fish farm is a facility for commercially raising fish for sale or human consumption.

Subd. 2. [ACQUISITION OF FISH.] (a) A person operating a fish farm may not obtain fish or fish eggs outside of the state unless the fish are approved by the commissioner. The commissioner must either approve or deny the acquisition within 30 days after receiving a written request for approval.

(b) If the commissioner denies approval, a written notice must be submitted to the applicant stating the reasons for the denial and the commissioner must:

- (1) designate approved sources to obtain the desired fish or fish eggs; or*
- (2) sell the fish or fish eggs from state fish hatcheries at fair market value.*

Subd. 3. [RULES FOR OPERATION.] The commissioner shall prescribe rules that allow a person to maintain and operate a fish farm to raise and dispose of fish. The commissioner shall prescribe and assess a fee to cover the cost of inspection and disease certification of fish farms.

Sec. 5. Minnesota Statutes 1986, section 97C.211, subdivision 1, is amended to read:

Subdivision 1. [LICENSE REQUIRED.] A person may not operate a private fish hatchery without a private fish hatchery license. A private fish hatchery is a facility for raising fish for sale for stocking waters.

Sec. 6. Minnesota Statutes 1986, section 97C.211, subdivision 2, is amended to read:

Subd. 2. [RULES FOR OPERATION.] The commissioner shall prescribe rules that allow a person to maintain and operate a private fish hatchery to raise and dispose of fish ~~indigenous to state waters~~. *The commissioner shall establish and assess a fee to cover the cost of inspection and disease certification of private hatcheries.*

Sec. 7. Minnesota Statutes 1986, section 97C.211, is amended by adding a subdivision to read:

Subd. 2a. [ACQUISITION OF FISH.] (a) *A private fish hatchery may not obtain fish outside of the state unless the fish are approved by the commissioner. The commissioner must either approve or deny the acquisition within 30 days after receiving a written request for approval.*

(b) *If the commissioner denies approval, a written notice must be submitted to the applicant stating the reasons for the denial and the commissioner must:*

- (1) designate approved sources to obtain the desired fish; or*
- (2) sell the fish or fish eggs from state fish hatcheries at fair market value.*

Sec. 8. Minnesota Statutes 1986, section 97C.391, is amended to read:
97C.391 [BUYING AND SELLING FISH.]

Subdivision 1. [GENERAL RESTRICTIONS.] A person may not buy or sell fish taken from the waters of this state, except:

- (1) minnows;
- (2) rough fish excluding ciscoes;
- (3) fish taken under licensed commercial fishing operations;
- (4) *fish raised in a fish farm that are identified as prescribed by the commissioner;*
- ~~(4)~~ (5) *fish raised in a private hatchery that are tagged or labeled or otherwise identified as prescribed by the commissioner; and*
- ~~(5)~~ (6) *fish lawfully taken and subject to sale from other states and countries.*

Subd. 2. [RESTRICTIONS ON CERTAIN GAME FISH.] Largemouth bass, smallmouth bass, rock bass, muskellunge, and sunfish may not be bought or sold, unless bought or sold by a private hatchery *or fish farm* to stock waters for recreational fishing as prescribed by the commissioner."

Delete the title and insert:

"A bill for an act relating to natural resources; establishing a commercial fish raising program; amending Minnesota Statutes 1986, sections 97A.475, by adding a subdivision; 97C.211, subdivisions 1 and 2, and by adding a subdivision; and 97C.391; proposing coding for new law in Minnesota Statutes, chapters 17 and 97C."

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

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

S.F. No. 810: A bill for an act relating to human services; requiring court-ordered group health insurance benefits be paid to providers; requiring all parties to sign workers' compensation settlement agreements; requiring notification to commissioner regarding workers' compensation payments; establishing a public assistance lien; establishing third party payer liability; requiring reporting of group insurance coverage; providing for reimbursement of benefits from programs with federal participation; amending Minnesota Statutes 1986, sections 62A.046; 256B.02, by adding a subdivision; 256B.042, subdivisions 2, 3, and by adding subdivisions; 256B.37, subdivisions 1, 2, and by adding subdivisions; 256D.03, by adding a subdivision; 268.121; 473.405, subdivision 13; and 514.69; proposing coding for new law in Minnesota Statutes, chapter 256.

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

Page 6, line 16, delete "*An attorney representing*" and delete "*on*" and insert "*who is a party to*"

Page 8, line 7, delete "*An attorney representing*" and delete "*on*" and insert "*who is a party to*"

Page 11, line 1, delete "*An attorney representing*" and delete "*on*" and insert "*who is a party to*"

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

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

S.F. No. 652: A bill for an act relating to agriculture; providing a computerized filing system and central data base for uniform commercial code financing statements and lien statements; imposing a penalty; appropriating money; proposing coding for new law in Minnesota Statutes, chapter 336.

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

Page 1, after line 9, insert:

"Section 1. Minnesota Statutes 1986, section 336.9-407, is amended to read:

336.9-407 [INFORMATION FROM FILING OFFICER.]

(1) If the person filing any financing statement, termination statement, statement of assignment, or statement of release, furnishes the filing officer a copy thereof, the filing officer shall upon request note upon the copy the file number and date and hour of the filing of the original and deliver or send the copy to such person.

(2) Upon request of any person, the filing officer shall conduct a search of a file for any effective financing statements naming a particular debtor and any statement of assignment thereof. The filing officer shall report the findings as of that date and hour by issuing:

(a) a certificate listing the file number, date, and hour of each filing and the names and addresses of each secured party therein;

(b) photocopies of the original documents on file; or,

(c) upon request, both the certificate and photocopies of the statements.

The uniform fee for conducting the search and for preparing a certificate showing up to five listed filings or for preparing up to five photocopies of original documents, or any combination of up to five listed filings and photocopies, shall be \$5 if the request is in the standard form prescribed by the secretary of state and otherwise shall be \$10. Another fee, at the same rate, shall also be charged for conducting a search and preparing a certificate showing federal and state tax liens on file with the filing officer naming a particular debtor. There shall be an additional fee of 50 cents for each financing statement and each statement of assignment or tax lien listed on the certificate and for each photocopy prepared in excess of the first five. *Notwithstanding the fees set in this section, a natural person who is the subject of data to be searched must, upon the person's request, be shown the data without charge, and upon request be provided with certificates and photocopies of the data upon payment of the actual cost of making, certifying, and compiling copies."*

Page 2, line 36, delete "(a) Except as provided in (b),"

Page 3, delete lines 5 to 8

Page 3, line 17, after the period, insert "*The surcharge does not apply to a search request made by a natural person who is the subject of the data to be searched.*"

Page 3, line 24, delete "1" and insert "2" and delete "3" and insert "4"

Page 3, line 30, delete "*this article*" and insert "*section 2*"

Page 4, line 7, delete "*This article is*" and insert "*Sections 2 to 5 are*"

Page 4, lines 10 and 12, delete "1" and insert "2"

Page 4, line 19, delete "3" and insert "4"

Renumber the sections in sequence

Amend the title as follows:

Page 1, line 5, after the third semicolon, insert "amending Minnesota Statutes 1986, section 336.9-407;"

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

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

S.F. No. 915: A bill for an act relating to crime; prohibiting harassment on private property; prohibiting following and stalking with intent to harass, abuse, or threaten; removing requirement that caller not disclose identity for purposes of misdemeanor harassing telephone calls; making it a misdemeanor to intentionally harass another by delivering a letter or object; providing penalties; amending Minnesota Statutes 1986, sections 609.746; 609.79, subdivision 1; and 609.795.

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 1986, section 609.605, subdivision 1,

is amended to read:

Subdivision 1. [MISDEMEANOR.] Whoever intentionally does any of the following is guilty of a misdemeanor:

(1) smokes in a building, area, or common carrier in which "no smoking" notices have been prominently posted, or when requested not to by the operator of the common carrier; or

(2) trespasses or permits animals under the actor's control to trespass upon a railroad track; or

(3) permits domestic animals or fowls under the actor's control to go upon the lands of another within a city; or

(4) interferes unlawfully with any monument, sign, or pointer erected or marked to designate a point of a boundary, line or a political subdivision, or of a tract of land; or

(5) trespasses upon the premises of another and, without claim of right, refuses to depart therefrom on demand of the lawful possessor thereof; or

(6) occupies or enters the dwelling of another, without claim of right or consent of the owner or the consent of one who has the right to give consent, except in an emergency situation. As used in this clause, "dwelling" means the building or part of the building used by an individual as a place of residence on either a full-time or a part-time basis. The dwelling may be part of a multidwelling or multipurpose building, or a manufactured home as defined in section 168.011, subdivision 8; or

(7) enters the premises of another with intent to take or injure any fruit, fruit trees, or vegetables growing thereon without the permission of the owner or occupant; or

(8) refuses the request of the operator of a public conveyance to either pay the required fare or leave the conveyance; or

(9) takes any animal on a public conveyance without the consent of the operator; or

(10) without the permission of the owner, tampers with or gets into or upon a motor vehicle as defined in section 609.55, subdivision 1, or rides in or upon such motor vehicle knowing it was taken and is being driven by another without the permission of the owner; or

(11) enters or is found upon the premises of a public or private cemetery without authorization during hours the cemetery is posted as closed to the public; or

(12) without authorization of the adjutant general enters or is present upon the Camp Ripley military reservation; or

(13) *returns to the property of another with the intent to harass, abuse, or threaten another, after being told to leave the property and not to return, if the actor has no claim of right to the property and no consent of one with authority to consent.*

Sec. 2. Minnesota Statutes 1986, section 609.746, is amended to read:

609.746 [INTERFERENCE WITH PRIVACY.]

Subdivision 1. [SURREPTITIOUS INTRUSION.] ~~Any~~ A person who enters upon another's property and surreptitiously gazes, stares, or peeps

in the window of a house or place of dwelling of another with intent to intrude upon or interfere with the privacy of a member of the household thereof is guilty of a misdemeanor.

Subd. 2. [INTRUSION ON PRIVACY.] A person who, with the intent to harass, abuse, or threaten another, repeatedly follows or stalks another, after being told not to do so by the person being followed or stalked, is guilty of a misdemeanor.

Sec. 3. Minnesota Statutes 1986, section 609.79, subdivision 1, is amended to read:

Subdivision 1. Whoever,

(1) By means of a telephone,

(a) Makes any comment, request, suggestion or proposal which is obscene, lewd, or lascivious, ~~filthy or indecent,~~

(b) ~~Repeatedly makes a telephone call~~ *calls*, whether or not conversation ensues, ~~without disclosing the caller's identity and with intent to annoy,~~ abuse, threaten, or harass ~~any person at the called number,~~

(c) Makes or causes the telephone of another repeatedly or continuously to ring, with intent to harass any person at the called number, or

(2) Having control of a telephone, knowingly permits it to be used for any purpose prohibited by this section, shall be guilty of a misdemeanor.

Sec. 4. Minnesota Statutes 1986, section 609.795, is amended to read:

609.795 [~~OPENING SEALED LETTER, TELEGRAM, OR PACKAGE;~~ *OPENING; HARASSMENT.*]

Whoever does ~~either~~ any of the following is guilty of a misdemeanor:

(1) Knowing that the actor does not have the consent of either the sender or the addressee, intentionally opens any sealed letter, telegram, or package addressed to another; or

(2) Knowing that a sealed letter, telegram, or package has been opened without the consent of either the sender or addressee, intentionally publishes any of the contents thereof; or

(3) *With the intent to harass, abuse, or threaten, repeatedly uses the mails or delivers letters, telegrams, or packages.*

Sec. 5. [EFFECTIVE DATE.]

Sections 1 to 4 are effective August 1, 1987, and apply to crimes committed on or after that date."

Delete the title and insert:

"A bill for an act relating to crime; amending trespass law to prohibit harassment on private property; prohibiting following and stalking with intent to harass, abuse, or threaten; removing requirement that caller not disclose identity for purposes of misdemeanor harassing telephone calls; prohibiting intentional harassment by delivering a letter or object; providing penalties; amending Minnesota Statutes 1986, sections 609.605, subdivision 1; 609.746; 609.79, subdivision 1; and 609.795."

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. 785: A bill for an act relating to crimes; authorizing filing of felony charges before the 14-day requirement when the crime charged is depriving another of parental rights; amending Minnesota Statutes 1986, section 609.26, subdivisions 2 and 5.

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 1986, section 609.26, subdivision 2, is amended to read:

Subd. 2. [DEFENSES.] No person violates subdivision 1 if the action:

(1) is taken to protect the child from physical or sexual assault or substantial emotional harm;

(2) is taken to protect the person taking the action from physical or sexual assault; *or*

(3) is consented to by the parent, stepparent, or legal custodian seeking prosecution; *or*

(4) is otherwise authorized by a court order issued prior to the violation of subdivision 1.

The defenses provided in this subdivision are in addition to and do not limit other defenses available under this chapter or chapter 611.

Sec. 2. Minnesota Statutes 1986, section 609.26, subdivision 5, is amended to read:

Subd. 5. [DISMISSAL OF CHARGE.] A felony charge brought under this section shall be dismissed if:

(a) the person voluntarily returns the child within 14 days after taking, detaining, or failing to return the child in violation of this section; *or*

(b)(1) the person taking the action and the child have not left the state of Minnesota; and (2) within a period of 14 days after taking the action, (i) a motion or proceeding under chapter 518, 518A, 518B, or 518C is commenced by the person taking the action, or (ii) the attorney representing the person taking the action has consented to service of process by the party whose rights are being deprived, for any motion or action pursuant to chapter 518, 518A, 518B, or 518C.

Clause (a) does not apply if the person returns the child as a result of being located by law enforcement authorities.

This subdivision does not prohibit the filing of felony charges or an offense report before the expiration of the 14 days.

Sec. 3. Minnesota Statutes 1986, section 609.26, subdivision 6, is amended to read:

Subd. 6. [PENALTY.] Except as otherwise provided in subdivision 5, whoever violates this section may be sentenced to imprisonment for not more than ~~one year~~ and ~~one day~~ *two years* or to payment of a fine of ~~\$3,000~~ *\$4,000*, or both."

Delete the title and insert:

"A bill for an act relating to crimes; eliminating consent defense to charge of depriving another of parental rights; allowing filing of felony charges before 14 days have elapsed; increasing penalty for depriving another of parental rights; amending Minnesota Statutes 1986, section 609.26, subdivisions 2, 5, and 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. 236: A bill for an act relating to obscenity; prohibiting the distribution and exhibition of obscene materials and performances; prescribing penalties; amending Minnesota Statutes 1986, section 617.241.

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

Page 1, line 24, strike "patently offensive"

Page 3, line 21, delete everything after "*effective*" and insert "*August 1, 1987, and applies to crimes committed on or after that date.*"

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. 1007: A bill for an act relating to courts; providing court of appeals representation on the sentencing guidelines commission; clarifying the membership on judicial appeal panels; permitting retired judges to solemnize marriages; clarifying judicial representation on the judicial standards board; authorizing the supreme court to adopt court rules; restricting mileage reimbursement for law clerks; amending Minnesota Statutes 1986, sections 244.09, subdivision 2; 253B.19, subdivision 1; 480.051; 484.545, subdivision 3; 484.62; 490.15, subdivision 1; 517.04; and 525.06.

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

Page 4, line 30, strike " ; RULES "

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

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

S.F. No. 1279: A bill for an act relating to agriculture; clarifying and amending the required offer of the state, a federal agency, or a corporation to offer a lease or sale of agricultural land to the immediately preceding owner; clarifying and amending provisions relating to designating a homestead and allowing designation of separate agricultural tracts in foreclosure proceedings; prohibiting waiver of statutory rights of debtors and allowing damages against persons who violate waiver prohibitions; amending Minnesota Statutes 1986, sections 500.24, subdivisions 2, 6, and by adding a subdivision; and 582.041, subdivisions 1, 2, 3, and 5; proposing coding for new law in Minnesota Statutes, chapters 550 and 582.

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

Page 5, line 27, before the semicolon, insert "*or has accepted an offer and has not fully performed according to the terms of the offer*"

Page 7, line 5, after "*cash price*" insert "*or equivalent cash price*"

Page 7, line 6, after "*price*" insert "*or equivalent cash price*" and delete "*or equivalent cash offer*"

Page 8, line 10, before the period, insert "*unless the waiver is expressly authorized by law*"

Page 9, line 8, before "The" insert "*The notice is not to be published.*"

Page 11, line 3, before the period, insert "*and the notice is not to be published*"

Page 12, line 16, delete "*August*" and insert "*July*"

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

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

S.F. No. 830: A bill for an act relating to commerce; regulating nonrenewals and transfers of franchises; providing civil liability for unfair practices in relation to franchises; amending Minnesota Statutes 1986, sections 80C.14; and 80C.17, subdivision 1.

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

Page 2, line 9, delete "*subdivisions*" and insert "*subdivision*"

Page 2, line 10, delete "*and*" and insert "*or*"

Page 3, line 10, reinstate the stricken "*has been*"

Page 3, line 11, reinstate the stricken "*given*" and after the reinstated "*given*" insert "*the right*" and reinstate the stricken "*to recover the franchisee's*" and after the reinstated "*franchisee's*" insert "*fair market value of the franchise as a going concern*"

Page 3, line 12, reinstate the stricken "*unless the failure to renew is for good cause as*"

Page 3, line 13, reinstate the stricken "*defined in*" and after the reinstated "*in*" insert "*subdivision 3,*" and reinstate the stricken "*clause (b)*" and delete "*either.*"

Page 3, delete lines 14 to 18

Page 3, line 19, delete the new language

Page 3, delete lines 20 to 30 and insert:

"*Subd. 5. [WITHHOLDING CONSENT TO TRANSFER.] It is unfair and inequitable for a person to unreasonably withhold consent to an assignment, transfer, or sale of the franchise whenever the franchisee to be substituted meets the present qualifications and standards required of the franchisees of the particular franchisor.*"

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. 446: A bill for an act relating to civil actions; limitations on commencement of actions; providing for the limitation of actions before administrative agencies; amending Minnesota Statutes 1986, section 541.01.

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 1986, section 541.07, is amended to read:

541.07 [TWO OR THREE YEAR LIMITATIONS.]

Except where the uniform commercial code or this section otherwise prescribes, the following actions shall be commenced within two years:

(1) For libel, slander, assault, battery, false imprisonment, or other tort, resulting in personal injury, and all actions against physicians, surgeons, dentists, other health care professionals as defined in section 145.61, and veterinarians as defined in chapter 156, hospitals, sanatoriums, for malpractice, error, mistake or failure to cure, whether based on contract or tort; provided a counter-claim may be pleaded as a defense to any action for services brought by a physician, surgeon, dentist or other health care professional or veterinarian, hospital or sanatorium, after the limitations herein described notwithstanding it is barred by the provisions of this chapter, if it was the property of the party pleading it at the time it became barred and was not barred at the time the claim sued on originated, but no judgment thereof except for costs can be rendered in favor of the party so pleading it;

(2) Upon a statute for a penalty or forfeiture;

(3) For damages caused by a dam, other than a dam used for commercial purposes; but as against one holding under the preemption or homestead laws, the limitations shall not begin to run until a patent has been issued for the land so damaged;

(4) Against a master for breach of an indenture of apprenticeship; the limitation runs from the expiration of the term of service;

(5) For the recovery of wages or overtime or damages, fees or penalties accruing under any federal or state law respecting the payment of wages or overtime or damages, fees or penalties except, that if the employer fails to submit payroll records by a specified date upon request of the department of labor and industry or if the nonpayment is willful and not the result of mistake or inadvertence, the limitation is three years. *The limitation periods in this paragraph apply whether the action is brought in court or before an administrative agency.* (The term "wages" means all remuneration for services or employment, including commissions and bonuses and the cash value of all remuneration in any medium other than cash, where the relationship of master and servant exists and the term "damages," means single, double, or treble damages, accorded by any statutory cause of action whatsoever and whether or not the relationship of master and servant exists);

(6) For damages caused by the establishment of a street or highway grade or a change in the originally established grade;

(7) For sales or use taxes imposed by the laws of any other state;

(8) Against the person who applies the pesticide for injury or damage to property resulting from the application, but not the manufacture or sale, of a pesticide.”

Amend the title as follows:

Page 1, line 3, after the second “actions” insert “for the recovery of wages”

Page 1, line 5, delete “541.01” and insert “541.07”

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. 577: A bill for an act relating to business corporations; regulating mergers and exchanges; amending Minnesota Statutes 1986, sections 302A.471, subdivisions 1 and 3; 302A.601, subdivision 2; 302A.611; 302A.613; 302A.615; 302A.631; and 302A.641, subdivision 1.

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

Page 1, after line 8, insert:

“Section 1. Minnesota Statutes 1986, section 302A.111, subdivision 2, is amended to read:

Subd. 2. [STATUTORY PROVISIONS THAT MAY BE MODIFIED ONLY IN ARTICLES.] The following provisions govern a corporation unless modified in the articles:

(a) A corporation has general business purposes (section 302A.101);

(b) A corporation has perpetual existence and certain powers (section 302A.161);

(c) The power to adopt, amend, or repeal the bylaws is vested in the board (section 302A.181);

(d) A corporation must allow cumulative voting for directors (section 302A.215);

(e) The affirmative vote of a majority of directors present is required for an action of the board (section 302A.237);

(f) A written action by the board taken without a meeting must be signed by all directors (section 302A.239);

(g) The board may authorize the issuance of securities and rights to purchase securities (section 302A.401, subdivision 1);

(h) All shares are common shares entitled to vote and are of one class and one series (section 302A.401, subdivision 2, clauses (a) and (b));

(i) All shares have equal rights and preferences in all matters not otherwise provided for by the board (section 302A.401, subdivision 2, clause (b));

(j) The par value of shares is fixed at one cent per share for certain purposes and may be fixed by the board for certain other purposes (section 302A.401, subdivision 2, clause (c));

(k) The board or the shareholders may issue shares for any consideration or for no consideration to effectuate share dividends or splits, and determine the value of nonmonetary consideration (section 302A.405, subdivision 1);

(l) Shares of a class or series must not be issued to holders of shares of another class or series to effectuate share dividends or splits, unless authorized by a majority of the voting power of the shares of the same class or series as the shares to be issued (section 302A.405, subdivision 1);

(m) A corporation may issue rights to purchase securities whose terms, provisions, and conditions are fixed by the board (section 302A.409);

(n) A shareholder has certain preemptive rights, unless otherwise provided by the board (section 302A.413);

(o) The affirmative vote of the holders of a majority of the voting power of the shares present and entitled to vote at a duly held meeting is required for an action of the shareholders, except where this chapter requires the affirmative vote of a majority of the voting power of all shares entitled to vote (section 302A.437, subdivision 1);

(p) Shares of a corporation acquired by the corporation may be reissued (section 302A.553, subdivision 1); *and*

~~(q) An exchange need not be approved by shareholders of the acquiring corporation unless the outstanding shares entitled to vote of that corporation will be increased by more than 20 percent immediately after the exchange (section 302A.613, subdivision 3, clause (c));~~

~~(r) An exchange need not be approved by shareholders of the acquiring corporation unless the outstanding participating shares of that corporation will be increased by more than 20 percent immediately after the exchange (section 302A.613, subdivision 3, clause (d)); and~~

~~(s) Each share has one vote unless otherwise provided in the terms of the share (section 302A.445, subdivision 3)."~~

Renumber the sections in sequence

Amend the title as follows:

Page 1, line 4, after "sections" insert "302A.111, 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. 156: A bill for an act relating to certain commercial transactions; adopting an article of the uniform commercial code that governs leases; amending Minnesota Statutes 1986, section 336.1-201; proposing coding for new law in Minnesota Statutes, chapter 336.

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

Page 59, after line 3, insert:

"Sec. 103. [EFFECTIVE DATE.]

This act is effective August 1, 1988."

And when so amended the bill do pass. Mr. Solon questioned the ref-

erence thereon and, under Rule 35, the bill was referred to the Committee on Rules and Administration.

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

S.F. No. 1340: A bill for an act relating to courts; authorizing the court of appeals to publish only certain decisions; amending Minnesota Statutes 1986, sections 480A.08; and 480A.09, subdivisions 1, 2, and 4.

Reports the same back with the recommendation that the bill do pass and be re-referred to the Committee on Finance. Report adopted.

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

S.F. No. 896: A bill for an act relating to probate; providing for the award of sentimental property to the decedent's children; amending Minnesota Statutes 1986, sections 525.15; and 525.151; proposing coding for new law in Minnesota Statutes, chapter 525.

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

Page 4, after line 25, insert:

"Sec. 4. [EFFECTIVE DATE.]

This act is effective August 1, 1987, and applies to estates of decedents dying on or after that date."

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. 321: A bill for an act relating to public safety; clarifying the evidentiary use of partial alcohol concentration breath tests; expanding the crimes of driving a motor vehicle or a motorboat while under the influence of alcohol or certain substances; amending Minnesota Statutes 1986, sections 169.121, subdivisions 1, 2, and 6; 169.123, subdivisions 2, 2a, 3, 4, and 6; 361.12, subdivisions 1, 3, and 4; and 361.121, subdivisions 1, 3, 4, and 7.

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

Page 2, line 13, delete the new language

Pages 3 to 8, delete sections 3 to 8

Pages 9 and 10, delete section 10

Page 10, line 18, delete the new language

Pages 11 to 13, delete sections 12 to 15

Page 13, line 20, delete "15" and insert "4"

Renumber the sections in sequence

Amend the title as follows:

Page 1, line 2, delete everything after the semicolon

Page 1, delete line 3

Page 1, delete lines 7 to 9 and insert "sections 169.121, subdivisions 1 and 2; and 361.12, subdivisions 1 and 4."

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. 537: A bill for an act relating to public safety; imposing mandatory minimum penalties on habitual DWI offenders; amending Minnesota Statutes 1986, section 169.121, by adding a subdivision.

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

Page 1, line 25, delete "*section*" and insert "*sections 609.11 and*"

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. 1050: A bill for an act relating to property transfers; expanding the manner for creating custodial property under the uniform transfers to minors act; amending Minnesota Statutes 1986, section 527.29.

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. 1117: A bill for an act relating to crimes; taxes; providing for collection from convicted person's tax refund of court-ordered restitution to crime victims; amending Minnesota Statutes 1986, sections 270A.02; and 270A.03, subdivisions 2, 5, and by adding a subdivision.

Reports the same back with the recommendation that the bill do pass and be re-referred to the Committee on Taxes and Tax Laws. Report adopted.

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

S.F. No. 1222: A bill for an act relating to firearms; allowing possession of machine guns by ammunition manufacturers for testing purposes only; amending Minnesota Statutes 1986, section 609.67, subdivision 3.

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

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

S.F. No. 872: A bill for an act relating to human services; regulating medical assistance payments for therapies provided to nursing home residents; permitting sanctions for unnecessary services; providing for monitoring of therapy costs; setting payment criteria; setting recordkeeping and cost-allocation requirements; providing penalties; amending Minnesota Statutes 1986, sections 256B.064, subdivision 1a; 256.421, subdivision 1; 256.433; 256B.47, subdivision 1, and by adding subdivisions; and 256B.48, subdivision 1.

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 1986, 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 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~~ peer advisory committee appointed by the commissioner on the recommendation of appropriate professional organizations.

Sec. 2. Minnesota Statutes 1986, section 256B.421, subdivision 1, is amended to read:

Subdivision 1. [SCOPE.] For the purposes of this section and sections 256B.41, 256B.411, 256B.431, ~~256B.433~~, 256B.47, 256B.48, 256B.50, and 256B.502, the following terms and phrases shall have the meaning given to them.

Sec. 3. Minnesota Statutes 1986, section 256B.433, is amended to read:
256B.433 [ANCILLARY SERVICES.]

Subdivision 1. [SETTING PAYMENT; MONITORING USE OF THERAPY SERVICES.] The commissioner shall promulgate rules pursuant to the administrative procedure act to set the amount and method of payment for ancillary materials and services provided to recipients residing in ~~long-term care facilities~~ *nursing homes*. Payment for materials and services may be made to either the nursing home in the operating cost per diem, to the vendor of ancillary services pursuant to Minnesota Rules, parts 9500.0750 to 9500.1080 or to a nursing home pursuant to Minnesota Rules, parts 9500.0750 to 9500.1080. Payment for the same or similar service to a recipient shall not be made to both the nursing home and the vendor. The commissioner shall ensure *the avoidance of double payments through audits and adjustments to the nursing home's annual cost report as required by section 256B.47, and that charges for ancillary materials and services are as would be incurred by a prudent and cost conscious buyer. Therapy services provided to a recipient must be medically necessary and appropriate to the medical condition of the recipient. If the provider of therapy services or ordering physician cannot provide adequate medical necessity justification, as determined by the commissioner in consultation with an advisory committee that meets the requirements of section 256B.064, sub-*

division 1a, the commissioner may recover or disallow the payment for the services and may require prior authorization for therapy services as a condition of payment or may impose administrative sanctions to limit the provider of therapy services or ordering physician's participation in the medical assistance program. For purposes of sections 1 to 7, "provider of therapy services" means the person or organization who is enrolled in the medical assistance program and under whose provider number therapy services are billed.

Subd. 2. [CERTIFICATION THAT TREATMENT IS APPROPRIATE.] The physical therapist, occupational therapist, speech therapist, or audiologist who provides or supervises the provision of therapy services, other than an initial evaluation, to a medical assistance recipient must certify in writing that the therapy's nature, scope, duration, and intensity are appropriate to the medical condition of the recipient every 30 days. The therapist's statement of certification must be maintained in the recipient's medical record together with the specific orders by the physician and the treatment plan. If the recipient's medical record does not include these documents, the commissioner may recover or disallow the payment for such services. If the therapist determines that the therapy's nature, scope, duration, or intensity is not appropriate to the medical condition of the recipient, the therapist must provide a statement to that effect in writing to the nursing home for inclusion in the recipient's medical record. The commissioner shall utilize a peer review program that meets the requirements of section 256B.064, subdivision 1a, to make recommendations regarding the medical necessity of services provided.

Subd. 3. [SEPARATE BILLINGS FOR THERAPY SERVICES.] Until new procedures are developed pursuant to subdivision 4, payment for therapy services provided to nursing home residents that are billed separately from the nursing home's payment rate or according to Minnesota Rules, parts 9500.0750 to 9500.1080, shall be subject to the following requirements:

(a) The practitioner invoice must include, in a format specified by the commissioner, the provider number of the nursing home where the medical assistance recipient resides regardless of the service setting.

(b) The commissioner shall require reporting of all revenues relating to the provision of therapy services and shall establish a medical assistance cost to medical assistance revenue ratio for the reporting year ending in 1986. The commissioner shall determine the ratio as follows:

(1) For each nursing home, establish the medical assistance cost for therapy services by dividing the nursing home's total medical assistance revenues by total revenues for therapy services and multiplying the result by the costs for therapy services determined in section 256B.47.

(2) For each nursing home, establish the medical assistance cost to revenue ratio for therapy services by dividing the medical assistance cost for therapy services as determined in clause (1) by the medical assistance revenues for therapy services.

The commissioner shall establish a weighted average medical assistance cost to revenue ratio for therapy services for the nursing home industry based on individual nursing home ratios. Nursing homes with an individual medical assistance cost to revenue ratio that is equal to or greater than the industry's weighted average ratio are subject to paragraph (c). Nursing

homes with an individual medical assistance cost to revenue ratio that is less than the industry's weighted average ratio shall offset the lesser of the amount determined in paragraph (c) or the amount of offset that is imputed based on one minus the industry's weighted average ratio multiplied by the nursing home's medical assistance revenues for therapy services. In subsequent reporting years, the individual nursing home's cost to revenue ratio may increase five percentage points in total until a new base year is established under paragraph (f).

(c) Nursing homes that are related by ownership, control, agreement, affiliation, or employment status to the vendor of therapy services shall report, in a format specified by the commissioner, the revenues received during the reporting year for therapy services provided to residents of the nursing home. The commissioner shall offset the medical assistance revenues received during the reporting year for therapy services provided to residents of the nursing home to the total payment rate of the nursing home by dividing the amount of offset by the nursing home's actual resident days. Except as specified in paragraph (b), the amount of offset shall be the medical assistance revenues in excess of 105 percent of the medical assistance cost as determined in paragraph (b), clause (1), removed from the cost report resulting from the requirement of the commissioner to ensure the avoidance of double payments as determined by section 256B.47. In establishing a new base period for the purpose of setting operating cost payment rate limits and rates, the commissioner shall not include the medical assistance revenues offset in accordance with this section.

(d) Nursing homes shall limit charges in total to vendors of therapy services for renting space, equipment, or obtaining other services during the rate year to 105 percent of the annualized cost removed from the reporting year cost report resulting from the requirement of the commissioner to ensure the avoidance of double payments as determined by section 256B.47. If the arrangement for therapy services is changed so that a nursing home is subject to this paragraph instead of paragraphs (b) and (c), the cost that is used to determine rent must be adjusted to exclude the annualized costs for therapy services that are not provided in the rate year. The maximum charges to the vendors shall be based on the commissioner's determination of annualized cost and may be subsequently adjusted upon resolution of appeals.

(e) This section does not allow unrelated nursing homes to reorganize related organization therapy services and provide services among themselves to avoid offsetting revenues. Nursing homes that are found to be in violation of this provision shall be subject to the penalty requirements of section 256B.48, subdivision 1, paragraph (f).

(f) The commissioner may establish a new reporting year base for determining the cost to revenue ratios.

Subd. 4. [ADVISORY COMMITTEE.] The commissioner shall convene an advisory committee consisting of nursing home consumers, therapists from each discipline, and representatives of the nursing home industry. The commissioner, in consultation with the advisory committee, shall study alternative methods of payment for therapy services provided to nursing home residents and report to the legislature by February 1, 1989.

Sec. 4. Minnesota Statutes 1986, section 256B.47, subdivision 1, is amended to read:

Subdivision 1. [NONALLOWABLE COSTS.] The following costs shall not be recognized as allowable: (1) political contributions; (2) salaries or expenses of a lobbyist, as defined in section 10A.01, subdivision 11, for lobbying activities; (3) advertising designed to encourage potential residents to select a particular nursing home; (4) assessments levied by the commissioner of health for uncorrected violations; (5) legal and related expenses for unsuccessful challenges to decisions by governmental agencies; (6) memberships in sports, health or similar social clubs or organizations; ~~and~~ (7) costs incurred for activities directly related to influencing employees with respect to unionization; *and (8) direct and indirect costs of providing services which are billed separately from the nursing home's payment rate or pursuant to Minnesota Rules, parts 9500.0750 to 9500.1080.* The commissioner shall by rule exclude the costs of any other items not directly related to the provision of resident care.

Sec. 5. Minnesota Statutes 1986, section 256B.47, is amended by adding a subdivision to read:

Subd. 3. [ALLOCATION OF COSTS.] To ensure the avoidance of double payments as required by section 256B.433, the direct and indirect reporting year costs of providing residents of nursing homes that are not hospital-attached with therapy services that are billed separately from the nursing home payment rate or according to Minnesota Rules, parts 9500.0750 to 9500.1080, must be determined and deducted from the appropriate cost categories of the annual cost report as follows:

(a) The costs of wages and salaries for employees providing or participating in providing and consultants providing services shall be allocated to the therapy service based on direct identification.

(b) The costs of fringe benefits and payroll taxes relating to the costs in paragraph (a) must be allocated to the therapy service based on direct identification or the ratio of total costs in paragraph (a) to the sum of total allowable salaries and the costs in paragraph (a).

(c) The costs of housekeeping, plant operations and maintenance, real estate taxes, special assessments, property and insurance, other than the amounts classified as a fringe benefit, must be allocated to the therapy service based on the ratio of service area square footage to total facility square footage.

(d) The costs of bookkeeping and medical records must be allocated to the therapy service either by the method in paragraph (e) or based on direct identification. Direct identification may be used if adequate documentation is provided to, and accepted by, the commissioner.

(e) The costs of administrators, bookkeeping, and medical records salaries, except as provided in paragraph (d), must be allocated to the therapy service based on the ratio of the total costs in paragraphs (a) to (d) to the sum of total allowable nursing home costs and the costs in paragraphs (a) to (d).

Sec. 6. Minnesota Statutes 1986, section 256B.47, is amended by adding a subdivision to read:

Subd. 4. [ALLOCATION OF COSTS; HOSPITAL-ATTACHED FACILITIES.] To ensure the avoidance of double payments as required by section 256B.433, the direct and indirect reporting year costs of providing therapy services to residents of a hospital-attached nursing home, when the services

are billed separately from the nursing home's payment rate or according to Minnesota Rules, parts 9500.0750 to 9500.1080, must be determined and deducted from the appropriate cost categories of the annual cost report based on the Medicare step-down as prepared in accordance with instructions provided by the commissioner.

Sec. 7. Minnesota Statutes 1986, section 256B.48, subdivision 1, is amended to read:

Subdivision 1. [PROHIBITED PRACTICES.] A nursing home is not eligible to receive medical assistance payments unless it refrains from *all of the following*:

(a) Charging private paying residents rates for similar services which exceed those which are approved by the state agency for medical assistance recipients as determined by the prospective desk audit rate, except under the following circumstances: the nursing home may (1) charge private paying residents a higher rate for a private room, and (2) charge for special services which are not included in the daily rate if medical assistance residents are charged separately at the same rate for the same services in addition to the daily rate paid by the commissioner. Services covered by the payment rate must be the same regardless of payment source. Special services, if offered, must be offered to all residents and charged separately at the same rate. Residents are free to select or decline special services. Special services must not include services which must be provided by the nursing home in order to comply with licensure or certification standards and that if not provided would result in a deficiency or violation by the nursing home. Services beyond those required to comply with licensure or certification standards must not be charged separately as a special service if they were included in the payment rate for the previous reporting year. A nursing home that charges a private paying resident a rate in violation of this clause is subject to an action by the state of Minnesota or any of its subdivisions or agencies for civil damages. A private paying resident or the resident's legal representative has a cause of action for civil damages against a nursing home that charges the resident rates in violation of this clause. The damages awarded shall include three times the payments that result from the violation, together with costs and disbursements, including reasonable attorneys' fees or their equivalent. A private paying resident or the resident's legal representative, the state, subdivision or agency, or a nursing home may request a hearing to determine the allowed rate or rates at issue in the cause of action. Within 15 calendar days after receiving a request for such a hearing, the commissioner shall request assignment of an administrative law judge under sections 14.48 to 14.56 to conduct the hearing as soon as possible or according to agreement by the parties. The administrative law judge shall issue a report within 15 calendar days following the close of the hearing. The prohibition set forth in this clause shall not apply to facilities licensed as boarding care facilities which are not certified as skilled or intermediate care facilities level I or II for reimbursement through medical assistance.

(b) Requiring an applicant for admission to the home, or the guardian or conservator of the applicant, as a condition of admission, to pay any fee or deposit in excess of \$100, loan any money to the nursing home, or promise to leave all or part of the applicant's estate to the home.

(c) Requiring any resident of the nursing home to utilize a vendor of health care services who is a licensed physician or pharmacist chosen by

the nursing home;

(d) Providing differential treatment on the basis of status with regard to public assistance;

(e) Discriminating in admissions, services offered, or room assignment on the basis of status with regard to public assistance. Admissions discrimination shall include, but is not limited to:

(1) basing admissions decisions upon assurance by the applicant to the nursing home, or the applicant's guardian or conservator, that the applicant is neither eligible for nor will seek public assistance for payment of nursing home care costs; and

(2) engaging in preferential selection from waiting lists based on an applicant's ability to pay privately.

The collection and use by a nursing home of financial information of any applicant pursuant to the preadmission screening program established by section 256B.091 shall not raise an inference that the nursing home is utilizing that information for any purpose prohibited by this paragraph.

(f) Requiring any vendor of medical care as defined by section 256B.02, subdivision 7, who is reimbursed by medical assistance under a separate fee schedule, to pay *any amount based on utilization or service levels* or any portion of the vendor's fee to the nursing home except as payment for renting or leasing space or equipment ~~of the nursing home~~ or purchasing support services; ~~if those from the nursing home as limited by section 256B.433. All agreements are must be disclosed to the commissioner; and upon request of the commissioner. Nursing homes and vendors of ancillary services that are found to be in violation of this provision shall each be subject to an action by the state of Minnesota or any of its subdivisions or agencies for treble civil damages on the portion of the fee in excess of that allowed by this provision and section 256B.433. Damages awarded must include three times the excess payments together with costs and disbursements including reasonable attorney fees or their equivalent.~~

(g) Refusing, for more than 24 hours, to accept a resident returning to the same bed or a bed certified for the same level of care, in accordance with a physician's order authorizing transfer, after receiving inpatient hospital services.

The prohibitions set forth in clause (b) shall not apply to a retirement home with more than 325 beds including at least 150 licensed nursing home beds and which:

(1) is owned and operated by an organization tax-exempt under section 290.05, subdivision 1, clause (i); and

(2) accounts for all of the applicant's assets which are required to be assigned to the home so that only expenses for the cost of care of the applicant may be charged against the account; and

(3) agrees in writing at the time of admission to the home to permit the applicant, or the applicant's guardian, or conservator, to examine the records relating to the applicant's account upon request, and to receive an audited statement of the expenditures charged against the applicant's individual account upon request; and

(4) agrees in writing at the time of admission to the home to permit the

applicant to withdraw from the home at any time and to receive, upon withdrawal, the balance of the applicant's individual account.

For a period not to exceed 180 days, the commissioner may continue to make medical assistance payments to a nursing home or boarding care home which is in violation of this section if extreme hardship to the residents would result. In these cases the commissioner shall issue an order requiring the nursing home to correct the violation. The nursing home shall have 20 days from its receipt of the order to correct the violation. If the violation is not corrected within the 20-day period the commissioner may reduce the payment rate to the nursing home by up to 20 percent. The amount of the payment rate reduction shall be related to the severity of the violation, and shall remain in effect until the violation is corrected. The nursing home or boarding care home may appeal the commissioner's action pursuant to the provisions of chapter 14 pertaining to contested cases. An appeal shall be considered timely if written notice of appeal is received by the commissioner within 20 days of notice of the commissioner's proposed action.

In the event that the commissioner determines that a nursing home is not eligible for reimbursement for a resident who is eligible for medical assistance, the commissioner may authorize the nursing home to receive reimbursement on a temporary basis until the resident can be relocated to a participating nursing home.

Certified beds in facilities which do not allow medical assistance intake on July 1, 1984, or after shall be deemed to be decertified for purposes of section 144A.071 only."

Amend the title as follows:

Page 1, line 9, delete "256.421" and insert "256B.421" and delete "256.433" and insert "256B.433"

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

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

S.F. No. 175: A bill for an act relating to health; health maintenance organizations; requiring disclosure of certain exclusions and limitations on coverage; amending Minnesota Statutes 1986, sections 62D.05, subdivision 2; 62D.07, subdivision 3; and 62D.12, subdivision 1.

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

Page 4, after line 24, insert:

"Sec. 4. [EFFECTIVE DATE.]

Sections 1, 2, and 3 are effective January 1, 1988."

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

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

S.F. No. 817: A bill for an act relating to human services; providing a grant program for on-site employer child care services; appropriating money;

proposing coding for new law in Minnesota Statutes, chapter 245.

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

Delete everything after the enacting clause and insert:

"Section 1. [245.829] [EMPLOYER DAY CARE GRANTS.]

Subdivision 1. [GRANT AMOUNTS; COVERED EXPENSES.] The commissioner of human services shall administer a program to provide grants to employers who want to provide child day care services for the benefit of their employees at the site of employment or within close proximity to the site of employment and who meet the criteria listed in subdivision 2. The grant shall be equal to 50 percent of total expenditures paid or incurred by the employer during the first two years for planning, site preparation, construction, renovation, or acquisition of facilities to establish a child care facility for use by the children of the employer's employees, including equipment installed for permanent use and kitchen appliances for use in delivering meals to the children. No employer may receive a grant in excess of \$40,000 in either of the first two years of the day care services operation.

If two or more employers share in the cost of establishing or operating a facility for the children of their employees, the commissioner shall apportion the grant between the employers in relation to the respective share paid by the employer to the total expenditures for the services during the year. If the grant is apportioned, the total amount of the grant apportioned may not exceed \$40,000.

Subd. 2. [GRANT PRIORITIES.] In reviewing grant proposals for funding, the commissioner will give priority to employers who will:

(1) provide day care services in accordance with all day care licensing laws;

(2) provide day care services at the site of employment or within reasonable walking distance of the employment site;

(3) provide day care services for infants and toddlers;

(4) allow employees with children using the day care services provided under this section flexibility in work schedules to enable visiting time; and

(5) agree to pay child care workers at least 125 percent of the median wages for child care workers in the county.

The employer may not receive any profit from the provision of the day care services or rent from the child care site. In addition, an employer receiving a grant under this section must continue to provide the day care services program for four years after state funding under this section has ended. If the employer does not continue the program, the state's attorney general shall seek to recover the full amount of the grant from the employer.

Subd. 3. [RULES.] The commissioner may adopt rules under chapter 14 necessary to administer and implement the grant program established under this section.

Sec. 2. [APPROPRIATION.]

\$500,000 is appropriated from the general fund to the commissioner of human services for the purpose of administering the grant program and

allocating grants under the provisions of section 1. The appropriation is available until expended. The amount of the appropriation available to the commissioner for administrative expenses must not exceed three percent."

Amend the title as follows:

Page 1, line 3, delete "on-site"

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

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

S.F. No. 962: A bill for an act relating to health; prohibiting smoking in day care homes and centers, schools, and health care facilities; prohibiting free distribution of smoking tobacco products; restricting sales and advertising of tobacco products; amending Minnesota Statutes 1986, sections 144.412; 144.414; and 325F77, subdivision 2; proposing coding for new law in Minnesota Statutes, chapter 144.

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

Page 1, delete section 1

Page 2, line 5, after "in" insert "certain"

Page 2, line 36, after "nursing home" insert ", boarding care facility, or licensed residential facility"

Page 3, line 1, after "treatment program" insert "or mental health program"

Page 3, delete section 4

Page 3, line 19, delete "3" and insert "2"

Renumber the sections in sequence

Amend the title as follows:

Page 1, delete lines 4 and 5

Page 1, line 6, delete "products;"

Page 1, line 7, after "144.412;" insert "and" and delete everything after "144.414" and insert a period

Page 1, delete lines 8 and 9

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

Mr. Chmielewski from the Committee on Employment, to which was referred

S.F. No. 4: A bill for an act relating to workers' compensation; making technical changes in benefit levels; authorizing the commissioner of labor and industry to perform various tasks; imposing a filing fee for certain appeals; making various administrative changes; providing penalties; amending Minnesota Statutes 1986, sections 176.011, subdivisions 2 and 7a; 176.101, subdivisions 3a, 3b and 3j; 176.102, subdivision 3a; 176.103, subdivision 3; 176.105, subdivision 4; 176.129, subdivisions 11 and 13;

176.131, subdivisions 1, 1a, and 8; 176.139; 176.179; 176.181, subdivision 3; 176.182; 176.191, subdivisions 1 and 2; 176.225, subdivision 2; 176.2421, subdivision 1; 176.511, subdivisions 1 and 3; repealing Minnesota Statutes 1986, section 176.243.

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 1986, 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 *may hear cases and shall appoint additional administrative law judges and compensation judges to serve in the office as necessary to fulfill the duties prescribed in sections 14.48 to 14.56 and chapter 176.* 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 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 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. 2. Minnesota Statutes 1986, section 175.007, subdivision 1, is amended to read:

Subdivision 1. The commissioner shall appoint an advisory council on workers' compensation, which consists of five representatives of employers and five representatives of employees; five nonvoting members representing the general public; ~~and two persons who have received or are currently receiving workers' compensation benefits under chapter 176 and the chairpersons of the rehabilitation review panel and the medical services review board.~~ The council may consult with any party it desires. The terms and removal of members shall be as provided in section 15.059. The council is not subject to section 15.059, subdivision 5.

Sec. 3. Minnesota Statutes 1986, section 175.101, subdivision 2, is amended to read:

Subd. 2. The commissioner shall keep a full and true record of all proceedings of the workers' compensation division, issue all necessary processes, writs, warrants, and notices which the division is required or

authorized to issue and generally act as the administrator of the division of workers' compensation in the department of labor and industry. Notices and other documents required to be served or filed on the division of workers' compensation ~~or the workers' compensation court of appeals~~ shall be served on the commissioner.

Sec. 4. Minnesota Statutes 1986, section 176.011, subdivision 2, is amended to read:

Subd. 2. [CHILD.] "Child" includes a posthumous child, a child entitled by law to inherit as a child of a deceased person, a child of a person adjudged by a court of competent jurisdiction to be the father of the child, and a stepchild, grandchild, or foster child who was a member of the family of a deceased employee at the time of injury and dependent upon the employee for support. *A stepchild is a "child" within the meaning of section 176.041.*

Sec. 5. Minnesota Statutes 1986, section 176.011, subdivision 6, is amended to read:

Subd. 6. (1) "Court of appeals" means the workers' compensation court of appeals of Minnesota.

(2) "Division" means the workers' compensation division of the department of labor and industry.

(3) "Department" means the department of labor and industry.

(4) "Commissioner", unless the context clearly indicates otherwise, means the commissioner of labor and industry.

(5) "*Office*" means the office of administrative hearings.

Sec. 6. Minnesota Statutes 1986, section 176.011, subdivision 7a, is amended to read:

Subd. 7a. [COMPENSATION JUDGE.] ~~The title referee as used in this chapter, relating to workers' compensation is hereby changed to~~ (1) *Compensation judge means a workers' compensation judge at the office of administrative hearings.*

(2) "*Calendar judge*" means a workers' compensation judge at the office of administrative hearings.

(3) "*Settlement judge*" means a compensation judge at the department of labor and industry. *Settlement judges may conduct settlement conferences, issue summary decisions, approve settlements and issue awards thereon, determine petitions for attorney fees and costs, and make other determinations, decisions, orders, and awards as may be delegated to them by the commissioner.*

Sec. 7. Minnesota Statutes 1986, section 176.011, subdivision 9, is amended to read:

Subd. 9. [EMPLOYEE.] "Employee" means any person who performs services for another for hire including the following:

(1) an alien;

(2) a minor;

(3) a sheriff, deputy sheriff, constable, marshal, police officer, firefighter, county highway engineer, and peace officer while engaged in the enforce-

ment of peace or in the pursuit or capture of any person charged with or suspected of crime and any person requested or commanded to aid an officer in arresting any person, or in retaking any person who has escaped from lawful custody, or in executing any legal process in which case, for purposes of calculating compensation payable under this chapter, the daily wage of the person requested or commanded to assist an officer or to execute a legal process shall be the prevailing wage for similar services where the services are performed by paid employees;

(4) a county assessor;

(5) an elected or appointed official of the state, or of any county, city, town, school district or governmental subdivision in it. An officer of a political subdivision elected or appointed for a regular term of office, or to complete the unexpired portion of a regular term, shall be included only after the governing body of the political subdivision has adopted an ordinance or resolution to that effect;

(6) an executive officer of a corporation, ~~except an officer of a family farm corporation as defined in section 500.24, subdivision 1, clause (e), or an executive officer of a closely held corporation who is referred to in section 176.012 those executive officers excluded by section 176.041;~~

(7) a voluntary uncompensated worker, other than an inmate, rendering services in state institutions under the commissioner of human services and state institutions under the commissioner of corrections similar to those of officers and employees of these institutions, and whose services have been accepted or contracted for by the commissioner of human services or the commissioner of corrections as authorized by law, shall be employees. In the event of injury or death of the voluntary uncompensated worker, the daily wage of the worker, for the purpose of calculating compensation payable under this chapter, shall be the usual going wage paid at the time of the injury or death for similar services in institutions where the services are performed by paid employees;

(8) a voluntary uncompensated worker engaged in peace time in the civil defense program when ordered to training or other duty by the state or any political subdivision of it, shall be an employee. The daily wage of the worker for the purpose of calculating compensation payable under this chapter, shall be the usual going wage paid at the time of the injury or death for similar services where the services are performed by paid employees;

(9) a voluntary uncompensated worker participating in a program established by a county welfare board shall be an employee. In the event of injury or death of the voluntary uncompensated worker, the wage of the worker, for the purpose of calculating compensation payable under this chapter, shall be the usual going wage paid in the county at the time of the injury or death for similar services where the services are performed by paid employees working a normal day and week;

(10) a voluntary uncompensated worker accepted by the commissioner of natural resources who is rendering services as a volunteer pursuant to section 84.089 shall be an employee. The daily wage of the worker for the purpose of calculating compensation payable under this chapter, shall be the usual going wage paid at the time of injury or death for similar services where the services are performed by paid employees;

(11) a member of the military forces, as defined in section 190.05, while in state active service, as defined in section 190.05, subdivision 5a. The

daily wage of the member for the purpose of calculating compensation payable under this chapter shall be based on the member's usual earnings in civil life. If there is no evidence of previous occupation or earning, the trier of fact shall consider the member's earnings as a member of the military forces;

(12) a voluntary uncompensated worker, accepted by the director of the Minnesota historical society, rendering services as a volunteer, pursuant to chapter 138, shall be an employee. The daily wage of the worker, for the purposes of calculating compensation payable under this chapter, shall be the usual going wage paid at the time of injury or death for similar services where the services are performed by paid employees;

(13) a voluntary uncompensated worker, other than a student, who renders services at the Minnesota School for the Deaf or the Minnesota Braille and Sight-Saving School, and whose services have been accepted or contracted for by the state board of education, as authorized by law, shall be an employee. In the event of injury or death of the voluntary uncompensated worker, the daily wage of the worker, for the purpose of calculating compensation payable under this chapter, shall be the usual going wage paid at the time of the injury or death for similar services in institutions where the services are performed by paid employees;

(14) a voluntary uncompensated worker, other than a resident of the veterans home, who renders services at a Minnesota veterans home, and whose services have been accepted or contracted for by the commissioner of veterans affairs, as authorized by law, is an employee. In the event of injury or death of the voluntary uncompensated worker, the daily wage of the worker, for the purpose of calculating compensation payable under this chapter, shall be the usual going wage paid at the time of the injury or death for similar services in institutions where the services are performed by paid employees;

(15) a worker who renders in-home attendant care services to a physically handicapped person, and who is paid directly by the commissioner of human services for these services, shall be an employee of the state within the meaning of this subdivision, but for no other purpose;

(16) those students enrolled in and regularly attending the medical school of the University of Minnesota, whether in the graduate school program or the post-graduate program, notwithstanding that the students shall not be considered employees for any other purpose. In the event of the student's injury or death, the weekly wage of the student for the purpose of calculating compensation payable under this chapter, shall be the annualized educational stipend awarded to the student, divided by 52 weeks. The institution in which the student is enrolled shall be considered the "employer" for the limited purpose of determining responsibility for paying benefits payable under this chapter;

(17) a faculty member of the University of Minnesota employed for the current academic year is also an employee for the period between that academic year and the succeeding academic year if:

(a) the faculty member has a contract or reasonable assurance of a contract from the University of Minnesota for the succeeding academic year; and

(b) the personal injury for which compensation is sought arises out of and in the course of activities related to the faculty member's employment

by the University of Minnesota; and

(18) a worker who performs volunteer ambulance driver or attendant services is an employee of the political subdivision, nonprofit hospital, nonprofit corporation, or other entity for which the worker performs the services. The daily wage of the worker for the purpose of calculating compensation payable under this chapter is the usual going wage paid at the time of injury or death for similar services if the services are performed by paid employees; and

(19) a voluntary uncompensated worker, accepted by the commissioner of administration, rendering services as a volunteer at the department of administration. In the event of injury or death of the voluntary uncompensated worker, the daily wage of the worker, for the purpose of calculating compensation payable under this chapter, shall be the usual going wage paid at the time of the injury or death for similar services in institutions where the services were performed by paid employees.

In the event it is difficult to determine the daily wage as provided in this subdivision, then the trier of fact may determine the wage upon which the compensation is payable.

Sec. 8. Minnesota Statutes 1986, section 176.011, subdivision 17, is amended to read:

Subd. 17. [PHYSICIAN.] "~~Physician~~" means one ~~authorized by law to practice the medical profession within one of the United States and in good standing in the profession, and includes surgeon licensed by the Minnesota state board of medical examiners or other comparable licensing authority in other states of the United States, to practice medicine.~~

Sec. 9. Minnesota Statutes 1986, section 176.011, is amended by adding a subdivision to read:

Subd. 17a. [ATTORNEY.] "Attorney" means a person licensed to practice law in Minnesota.

Sec. 10. Minnesota Statutes 1986, section 176.011, is amended by adding a subdivision to read:

Subd. 17b. [CHIROPRACTOR.] "Chiropractor" means a person licensed to practice chiropractic by the state board of chiropractic examiners.

Sec. 11. Minnesota Statutes 1986, section 176.011, is amended by adding a subdivision to read:

Subd. 27. [ADMINISTRATIVE CONFERENCE.] An "administrative conference" is a meeting conducted by a commissioner's designee where parties can discuss on an expedited basis and in an informal setting their viewpoints concerning disputed issues arising under section 176.102, 176.103, 176.135, 176.136, or section 60. If the parties are unable to resolve the dispute, the commissioner's designee shall issue an administrative decision under section 27 or 60.

Sec. 12. Minnesota Statutes 1986, section 176.021, subdivision 1a, is amended to read:

Subd. 1a. [BURDEN OF PROOF] All disputed issues of fact arising under this chapter shall be determined by a preponderance of the evidence, and in accordance with the principles laid down in section 176.001. Preponderance of the evidence means evidence produced in substantiation of

a fact which, when weighed against the evidence opposing the fact, has more convincing force and greater probability of truth. *The possible etiology of an injury must be included in reports and evidence submitted by those licensed as physicians or chiropractors.*

Questions of law arising under chapter 176 shall be determined on an even-handed basis in accordance with the principles laid down in section 176.001.

Sec. 13. Minnesota Statutes 1986, section 176.041, subdivision 1, is amended to read:

Subdivision 1. [EMPLOYMENTS EXCLUDED.] This chapter does not apply to *any of the following*:

(a) a person employed by a common carrier by railroad engaged in interstate or foreign commerce and who is covered by the Federal Employers' Liability Act, United States Code, title 45, sections 51 to 60, or other comparable federal law;

~~to~~ (b) a person employed by a family farm as defined by section 176.011, subdivision 11a;

~~or~~ (c) the spouse, parent, and child, regardless of age, of a farmer-employer working for the farmer-employer;

(d) *a sole proprietor, or the spouse, parent, and child, regardless of age, of a sole proprietor*;

~~to~~ (e) a partner engaged in a farm operation or a partner engaged in a business and the spouse, parent, and child, regardless of age, of a partner in the farm operation or business;

~~to~~ (f) an executive officer of a family farm corporation;

~~to~~ (g) an executive officer of a closely held corporation ~~referred to in section 176.012~~ *having less than 22,880 hours of payroll in the preceding calendar year, if that executive officer owns at least 25 percent of the stock of the corporation*;

~~to~~ (h) a spouse, parent, or child, regardless of age, of an executive officer of a family farm corporation as defined in section 500.24, subdivision 2, and employed by that family farm corporation;

~~to~~ (i) a spouse, parent, or child, regardless of age, of an executive officer of a closely held corporation ~~referred to in section 176.012~~ *who is referred to in paragraph (g)*;

~~to~~ (j) another farmer or ~~to~~ a member of the other farmer's family exchanging work with the farmer-employer or family farm corporation operator in the same community;

~~to~~ (k) a person whose employment at the time of the injury is casual and not in the usual course of the trade, business, profession, or occupation of the employer;

(l) persons who are independent contractors as defined by rules adopted by the commissioner pursuant to section 176.83 except that this exclusion does not apply to an employee of an independent contractor; ~~nor does this chapter apply to~~

(m) an officer or a member of a veterans' organization whose employment relationship arises solely by virtue of attending meetings or conventions

of the veterans' organization, unless the veterans' organization elects by resolution to provide coverage under this chapter for the officer or member-;

~~Neither does the chapter apply to (n) a person employed as a household worker in, for, or about a private home or household who earns less than \$1,000 in cash in a three-month period from a single private home or household provided that a household worker who has earned \$1,000 or more from the household worker's present employer in a three-month period within the previous year is covered by this chapter regardless of whether or not the household worker has earned \$1,000 in the present quarter-;~~

~~This chapter does not apply to those (o) persons employed by a closely held corporation if those persons who are related by blood or marriage, within the third degree of kindred according to the rules of civil law, to the officers an officer of the corporation, and who is referred to in paragraph (g), if the corporation files a written election with the commissioner to have those persons excluded from this chapter except that exclude such individuals. A written election is not required for a person who is otherwise excluded from this chapter by this section-;~~

~~This chapter does not apply to (p) a nonprofit association which does not pay more than \$1,000 in salary or wages in a year-;~~

~~This chapter does not apply to (q) persons covered under the Domestic Volunteer Service Act of 1973, as amended, United States Code, title 42, sections 5011, et. seq.~~

Sec. 14. Minnesota Statutes 1986, section 176.041, is amended by adding a subdivision to read:

Subd. 1a. [ELECTION OF COVERAGE.] The persons, partnerships and corporations described in this subdivision may elect to provide the insurance coverage required by this chapter.

(a) An owner or owners of a business or farm may elect coverage for themselves.

(b) A partnership owning a business or farm may elect coverage for any partner.

(c) A family farm corporation as defined in section 500.24, subdivision 2, clause (c), may elect coverage for any executive officer.

(d) A closely held corporation which had less than 22,880 hours of payroll in the previous calendar year may elect coverage for any executive officer if that executive officer is also an owner of at least 25 percent of the stock of the corporation.

(e) A person, partnership, or corporation hiring an independent contractor, as defined by rules adopted by the commissioner, may elect to provide coverage for that independent contractor.

A person, partnership, or corporation may charge the independent contractor a fee for providing the coverage only if the independent contractor (1) elects in writing to be covered, (2) is issued an endorsement setting forth the terms of the coverage, the name of the independent contractors, and the fee and how it is calculated.

The persons, partnerships and corporations described in this subdivision may also elect coverage for an employee who is a spouse, parent or child, regardless of age, of an owner, partner, or executive officer, who is eligible

for coverage under this subdivision. Coverage may be elected for a spouse, parent or child whether or not coverage is elected for the related owner, partner or executive director and whether or not the person, partnership or corporation employs any other person to perform a service for hire. Any person for whom coverage is elected pursuant to this subdivision shall be included within the meaning of the term employee for the purposes of this chapter.

Notice of election of coverage or of termination of election under this subdivision shall be provided in writing to the insurer. Coverage or termination of coverage is effective the day following receipt of notice by the insurer or at a subsequent date if so indicated in the notice. The insurance policy shall be endorsed to indicate the names of those persons for whom coverage has been elected or terminated under this subdivision. An election of coverage under this subdivision shall continue in effect as long as a policy or renewal policy of the same insurer is in effect.

Nothing in this subdivision shall be construed to limit the responsibilities of owners, partnerships or corporations to provide coverage for their employees, if any, as required under this chapter.

Sec. 15. Minnesota Statutes 1986, section 176.081, subdivision 2, is amended to read:

Subd. 2. An application for attorney fees in excess of the amount authorized in subdivision 1 shall be made to the ~~division~~ commissioner, compensation judge, or district judge, before whom the matter was heard. An appeal of a decision by the commissioner, a compensation judge, or district court judge on additional fees may be made to the workers' compensation court of appeals. The application shall set forth the fee requested and the basis for the request and whether or not a hearing is requested. The application, with affidavit of service upon the employee, shall be filed by the attorney requesting the fee. If a hearing is requested by an interested party, a hearing shall be set with notice of the hearing served upon known interested parties. In all cases the employee shall be served with notice of hearing.

Sec. 16. Minnesota Statutes 1986, section 176.102, subdivision 2, is amended to read:

Subd. 2. [ADMINISTRATORS.] The commissioner shall hire a director of rehabilitation services in the classified service. The commissioner shall monitor and supervise rehabilitation services, including, but not limited to, making determinations regarding the selection and delivery of rehabilitation services and the criteria used to approve qualified rehabilitation consultants and rehabilitation vendors. The commissioner may also make determinations regarding fees for rehabilitation services; ~~the fitness of qualified rehabilitation consultants and vendors to continue to be approved under this section and has authority to discipline, by fine or otherwise, the consultants or vendors who act in violation of this chapter or rules adopted pursuant to this chapter.~~ The commissioner may hire qualified personnel to assist in the commissioner's duties under this section and may delegate the duties and performance.

Sec. 17. Minnesota Statutes 1986, section 176.102, subdivision 3, is amended to read:

Subd. 3. [REVIEW PANEL.] There is created a rehabilitation review

panel composed of the commissioner or a designee, who shall serve as an ex officio member and two members each from employers, insurers, rehabilitation, and medicine, one member representing chiropractors, and four members representing labor. The members shall be appointed by the commissioner and shall serve four-year terms which may be renewed. Compensation for members shall be governed by section 15.0575. The panel shall select a chair. The panel shall review and make a determination with respect to (a) appeals regarding eligibility for rehabilitation services, rehabilitation plans and rehabilitation benefits under subdivisions 9 and 11; (b) appeals on any other rehabilitation issue the commissioner determines under this section; and (c) appeals from orders of the commissioner regarding fee disputes, penalties, discipline, certification approval or revocation of registration of qualified rehabilitation consultants and approved vendors. The hearings are de novo and initiated by the panel under the contested case procedures of chapter 14, and are appealable to the workers' compensation court of appeals in the manner provided by section 176.421.

Subd. 3a. [DISCIPLINARY ACTIONS.] The panel has authority to discipline qualified rehabilitation consultants and vendors and may impose a penalty of up to \$1,000 per violation, and may suspend or revoke certification. Complaints against registered qualified rehabilitation consultants and vendors shall be made to the commissioner who shall investigate all complaints. If the investigation indicates a violation of this chapter or rules adopted under this chapter, the commissioner may initiate a contested case proceeding under the provisions of chapter 14. In these cases, the rehabilitation review panel shall make the final decision following receipt of the report of an administrative law judge. The decision of the panel is appealable to the workers' compensation court of appeals in the manner provided by section 176.421. The panel shall continuously study rehabilitation services and delivery and, develop and recommend rehabilitation rules to the commissioner, and assist the commissioner in accomplishing public education.

The commissioner may appoint alternates for one-year terms to serve as a member when a member is unavailable. The number of alternates shall not exceed one labor member, one employer or insurer member, and one member representing medicine, chiropractic, or rehabilitation.

Sec. 18. Minnesota Statutes 1986, section 176.102, subdivision 3a, is amended to read:

Subd. 3a- 3b. [REVIEW PANEL APPEALS DETERMINATIONS.] Appeals to the review panel Recommendations from the administrative law judge following a contested case hearing shall be heard before determined by a panel of five members designated by the review panel. Each five-member panel shall consist of at least one labor member, at least one employer or insurer member, and at least one member representing medicine, chiropractic, or rehabilitation. The number of labor members and employer or insurer members on the five-member panel shall be equal. The determination of the five-member panel shall be by a majority vote and shall represent the determination of the entire review panel and is not subject to review by the panel as a whole. When conducting a review of the commissioner's determination regarding any rehabilitation issue or plan the panel shall give the parties notice that the appeal will be heard. This notice shall be given at least ten working days prior to the hearing. The notice shall state that parties may be represented by counsel at the hearing. In conducting its review the panel shall permit an interested party to present

relevant, competent, oral or written evidence and to cross-examine opposing evidence. Evidence presented is not limited to the evidence previously submitted to the commissioner. A record of the proceeding shall be made by the panel. Upon determination of the issue presented, the panel shall issue to the interested parties a written decision and order. The decision need not contain a recitation of the evidence presented at the hearing, but shall be limited to the panel's basis for the decision. The panel may adopt rules of procedure which may be joint rules with the medical services review board.

Sec. 19. Minnesota Statutes 1986, section 176.102, subdivision 4, is amended to read:

Subd. 4. [REHABILITATION PLAN; DEVELOPMENT.] (a) An employer or insurer shall provide rehabilitation consultation by a qualified rehabilitation consultant or by another person permitted by rule to provide consultation to an injured employee within five days after the employee has 60 days of lost work time due to the personal injury, except as otherwise provided in this subdivision. Where an employee has incurred an injury to the back, the consultation shall be made within five days after the employee has 30 days of lost work time due to the injury. The lost work time in either case may be intermittent lost work time. If an employer or insurer has medical information at any time prior to the time specified in this subdivision that the employee will be unable to return to the job the employee held at the time of the injury rehabilitation consultation shall be provided immediately after receipt of this information.

For purposes of this section "lost work time" means only those days during which the employee would actually be working but for the injury. In the case of the construction industry, mining industry, or other industry where the hours and days of work are affected by seasonal conditions, "lost work time" shall be computed by using the normal schedule worked when employees are working full time.

The qualified rehabilitation consultant appointed by the employer or insurer shall disclose in writing at the first meeting or written communication with the employee any ownership interest or affiliation between the firm which employs the qualified rehabilitation consultant and the employer, insurer, adjusting or servicing company, including the nature and extent of the affiliation or interest.

If the employee objects to the employer's selection of a qualified rehabilitation consultant, the employee shall notify the employer and the commissioner in writing of the objection. *The notification shall include the name, address, and telephone number of the qualified rehabilitation consultant chosen by the employee to provide rehabilitation consultation.*

~~Upon receipt of the notice of objection, the commissioner may schedule an administrative conference for the purpose of determining which qualified rehabilitation consultant may be mutually acceptable. On an employee's first request for appointment or change of qualified rehabilitation consultant, the employee has the final decision on which qualified rehabilitation consultant is to be utilized. After the employee has chosen a qualified rehabilitation consultant, subsequent requests shall be determined by the commissioner or compensation judge according to the best interests of the parties.~~

The employee and employer shall enter into a program if one is prescribed

in a rehabilitation plan. A copy of the plan, including a target date for return to work, shall be submitted to the commissioner.

(b) If the employer does not provide rehabilitation consultation as required by this section, the commissioner *or compensation judge* shall notify the employer that if the employer fails to appoint a qualified rehabilitation consultant or other persons as permitted by clause (a) within 15 days to conduct a rehabilitation consultation, the commissioner *or compensation judge* shall appoint a qualified rehabilitation consultant to provide the consultation at the expense of the employer unless the commissioner *or compensation judge* determines the consultation is not required.

(c) In developing a rehabilitation plan consideration shall be given to the employee's qualifications, including but not limited to age, education, previous work history, interest, transferable skills, and present and future labor market conditions.

(d) The commissioner *or compensation judge* may waive rehabilitation ~~consultation services~~ under this section if the commissioner *or compensation judge* is satisfied that the employee will return to work in the near future or that rehabilitation ~~consultation services~~ will not be useful in returning an employee to work.

Sec. 20. Minnesota Statutes 1986, section 176.102, subdivision 6, is amended to read:

Subd. 6. [PLAN, ELIGIBILITY FOR REHABILITATION, APPROVAL AND APPEAL.] The commissioner *or a compensation judge* shall determine eligibility for rehabilitation services and shall review, approve, modify or reject rehabilitation plans developed under subdivision 4. The commissioner *or a compensation judge* shall also make determinations regarding rehabilitation issues not necessarily part of a plan including, but not limited to, determinations regarding whether an employee is eligible for further rehabilitation and the benefits under subdivisions 9 and 11 to which an employee is entitled. ~~A decision of the commissioner may be appealed to the rehabilitation review panel within 30 days of the commissioner's decision. The decision of the panel may be appealed to the workers' compensation court of appeals in the same manner as other matters appealed to the court.~~

Sec. 21. Minnesota Statutes 1986, section 176.102, subdivision 8, is amended to read:

Subd. 8. [PLAN MODIFICATION.] Upon request to the commissioner *or compensation judge* by the employer, the insurer, or employee, or upon the commissioner's own request, the plan may be suspended, terminated or altered upon a showing of good cause, including:

(a) a physical impairment that does not allow the employee to pursue the rehabilitation plan;

(b) the employee's performance level indicates the plan will not be successfully completed;

(c) an employee does not cooperate with a plan;

(d) that the plan or its administration is substantially inadequate to achieve the rehabilitation plan objectives;

(e) *that the employee is not likely to benefit from further rehabilitation services.*

An employee may request a change in a rehabilitation plan once because the employee feels ill-suited for the type of work for which rehabilitation is being provided. If the rehabilitation plan includes retraining, this request must be made within 90 days of the beginning of the retraining program. ~~Any decision of the commissioner regarding a change in a plan may be appealed to the rehabilitation review panel within 30 days of the decision.~~

Sec. 22. Minnesota Statutes 1986, section 176.102, subdivision 10, is amended to read:

Subd. 10. [REHABILITATION; CONSULTANTS AND VENDORS.] The commissioner shall approve rehabilitation consultants who may propose and implement plans if they satisfy rules adopted by the commissioner for rehabilitation consultants. A consultant may be an individual or public or private entity, but may not be a vendor or the agent of a vendor of rehabilitation services. *The commissioner shall also approve rehabilitation vendors if they satisfy rules adopted by the commissioner.*

Sec. 23. Minnesota Statutes 1986, section 176.102, subdivision 13, is amended to read:

Subd. 13. [DISCONTINUANCE.] All benefits payable under chapter 176 may, after a determination and order by the commissioner or compensation judge, be discontinued or forfeited for any time during which the employee refuses to submit to any reasonable examinations and evaluative procedures ordered by the commissioner or compensation judge to determine the need for and details of a plan of rehabilitation, or refuses to participate in rehabilitation evaluation as required by this section or does not make a good faith effort to participate in a rehabilitation plan. A discontinuance under this section is governed by ~~section 176.242~~ sections 59 and 60.

Sec. 24. [176.1021] [CONTINUING EDUCATION; COMPENSATION JUDGES.]

The commissioner and the chief administrative law judge shall provide continuing education and training for workers' compensation judges in the conduct of administrative hearings, new trends in workers' compensation, techniques of alternative dispute resolution and, at least annually, continuing education in the areas of physical and vocational rehabilitation.

Sec. 25. Minnesota Statutes 1986, section 176.103, subdivision 2, is amended to read:

Subd. 2. [SCOPE.] (a) The commissioner shall monitor the medical and surgical treatment provided to injured employees, the services of other health care providers and shall also monitor hospital utilization as it relates to the treatment of injured employees. This monitoring shall include determinations concerning the appropriateness of the service, whether the treatment is necessary and effective, the proper cost of services, the quality of the treatment, the right of providers to receive payment under this chapter for services rendered or the right to receive payment under this chapter for future services. ~~The commissioner may penalize, disqualify, or suspend a provider from receiving payment for services rendered under this chapter, if the commissioner determines that the provider has violated any part of this chapter or rule adopted under this chapter.~~ *The commissioner shall report the results of the monitoring to the medical services review board. The commissioner may, either as a result of the monitoring or as a result of an investigation following receipt of a complaint, if the commissioner*

believes that any provider of health care services has violated any provision of this chapter or rules adopted under this chapter, initiate a contested case proceeding under chapter 14. In these cases, the medical services review board shall make the final decision following receipt of the report of an administrative law judge. The commissioner's authority under this section also includes the authority to make determinations regarding any other activity involving the questions of utilization of medical services, and any other determination the commissioner deems necessary for the proper administration of this section, but does not include the authority to make the initial determination of primary liability.

Except as provided in paragraph (b), the commissioner has the sole authority to make determinations under this section with a right of appeal to the medical services review board as provided in subdivision 3 and the workers' compensation court of appeals. A compensation judge has no jurisdiction in making determinations under this section.

(b) The commissioner has authority under this section to make determinations regarding medical causation. Objections to these determinations shall be referred to the chief administrative law judge for a de novo hearing before a compensation judge, with a right to review by the workers' compensation court of appeals, as provided in this chapter.

Sec. 26. Minnesota Statutes 1986, section 176.103, subdivision 3, is amended to read:

Subd. 3. [MEDICAL SERVICES REVIEW BOARD; SELECTION; POWERS.] (a) There is created a medical services review board composed of the commissioner or the commissioner's designee as an ex officio member, two persons representing chiropractic, one person representing hospital administrators, and six physicians representing different specialties which the commissioner determines are the most frequently utilized by injured employees. The board shall also have one person representing employees, one person representing employers or insurers, and one person representing the general public. The members shall be appointed by the commissioner and shall be governed by section 15.0575. Terms of the board's members may be renewed. ~~The board shall appoint from among its clinical members a clinical advisory subcommittee on clinical quality and a clinical advisory subcommittee on clinical cost containment. Each subcommittee shall consist of at least three members one of whom shall be a member who is not a chiropractor or licensed physician. The board may appoint from its members whatever subcommittees it deems appropriate.~~

The commissioner may appoint alternates for one-year terms to serve as a member when a member is unavailable. The number of alternates shall not exceed one chiropractor, one hospital administrator, three physicians, one employee representative, one employer or insurer representative, and one representative of the general public.

~~The clinical quality subcommittee board shall review clinical results for adequacy and recommend to the commissioner scales for disabilities and apportionment.~~

~~The clinical cost containment subcommittee board shall review and recommend to the commissioner rates for individual clinical procedures and aggregate costs. The subcommittees shall make regular reports to the board and the commissioner which shall evaluate the reports for the purpose of determining whether or not a particular health care provider continues~~

to qualify for payment under this chapter or is subject to any other sanctions or penalties authorized under this section and to determine whether an employee has been off work longer than necessary. *The board shall assist the commissioner in accomplishing public education.*

In evaluating the clinical consequences of the services provided to an employee by a clinical health care provider, the board shall consider the following factors in the priority listed:

- (1) the clinical effectiveness of the treatment;
- (2) the clinical cost of the treatment; and
- (3) the length of time of treatment.

In its consideration of these factors, the board shall utilize the information and recommendations developed by the subcommittees. In addition, the board shall utilize any other data developed by the subcommittees pursuant to the duties assigned to the subcommittees under this section.

After making a determination, the board shall submit its recommendation in writing to the commissioner. The board shall advise the commissioner on the adoption of rules regarding all aspects of medical care and services provided to injured employees.

(b) *The board shall appoint three of its members to hear appeals from decisions of the commissioner regarding quality control and supervision of medical care; any other disputes regarding medical, surgical, and hospital care; decisions regarding the eligibility of medical providers to receive payments; or any other determinations of the commissioner pursuant to subdivision 2. The three-member panel shall be composed of one member who does not represent a health care specialty, one member who represents the same specialty as the specialty at issue or, if the same specialty is not available, one member whose specialty is as close as possible considering the board's composition, and one member representing a different specialty. The three-member panel shall conduct a hearing in the same manner, giving the same notice and following other procedures required of the rehabilitation review panel in section 176.102, subdivision 3a. A majority vote of the three-member panel constitutes the decision of the full board. This decision may be appealed to the workers' compensation court of appeals. The medical services review board may, upon petition from the commissioner and after hearing, issue a penalty of \$100 per violation, disqualify, or suspend a provider from receiving payment for services rendered under this chapter if a provider has violated any part of this chapter or rule adopted under this chapter. The hearings are initiated by the commissioner under the contested case procedures of chapter 14. The board shall make the final decision following receipt of the recommendation of the administrative law judge. The board's decision is appealable to the workers' compensation court of appeals in the manner provided by section 176.421.*

(c) *In any situation where a conflict of interest prevents the appointment of a full three-member panel or in any other situation where the commissioner deems it necessary to resolve a conflict of interest, the commissioner may appoint a temporary substitute board member to serve until the situation creating the conflict of interest has been resolved.*

(d) *The board may adopt rules of procedure. The rules may be joint rules with the rehabilitation review panel.*

Sec. 27. [176.106] [ADMINISTRATIVE CONFERENCE.]

Subdivision 1. [SCOPE.] All determinations by the commissioner pursuant to section 176.102, 176.103, 176.135, or 176.136 shall be in accordance with the procedures contained in this section.

Subd. 2. [REQUEST FOR CONFERENCE.] Any party may request an administrative conference by filing a request on a form prescribed by the commissioner.

Subd. 3. [CONFERENCE.] The matter shall be scheduled for an administrative conference within 60 days after receipt of the request for a conference. Notice of the conference shall be served on all parties no later than 14 days prior to the conference, unless the commissioner determines that a conference shall not be held. The commissioner may order an administrative conference whether or not a request for conference is filed.

The commissioner, at his discretion, may refuse to hold an administrative conference and refer the matter for a settlement or pretrial conference or may certify the matter to the office of administrative hearings for a full hearing before a compensation judge.

Subd. 4. [APPEARANCES.] All parties shall appear either personally, by telephone, by representative, or by written submission. The commissioner shall determine the issues in dispute based upon the information available at the conference.

Subd. 5. [DECISION.] A written decision shall be issued by the commissioner or an authorized representative determining all issues considered at the conference or if a conference was not held, based on the written submissions. Disputed issues of fact shall be determined by a preponderance of the evidence. The decision must be issued within 30 days after the close of the conference or if no conference was held, within 60 days after receipt of the request for conference. The decision must include a statement indicating the right to request a de novo hearing before a compensation judge and how to initiate the request.

Subd. 6. [PENALTY.] At a conference, if the insurer does not provide a specific reason for nonpayment of the items in dispute, the commissioner may assess a penalty of \$300 payable to the special compensation fund, unless it is determined that the reason for the lack of specificity was the failure of the insurer, upon timely request, to receive information necessary to remedy the lack of specificity. This penalty is in addition to any penalty that may be applicable for nonpayment.

Subd. 7. [REQUEST FOR HEARING.] Any party aggrieved by the decision of the commissioner may request a formal hearing by filing the request with the commissioner no later than 30 days after the decision. The request shall be referred to the office of administrative hearings for a de novo hearing before a compensation judge. The commissioner shall refer a timely request to the office of administrative hearings within five working days after filing of the request and the hearing at the office of administrative hearings must be held on the first date that all parties are available but not later than 60 days after the office of administrative hearings receives the matter. Following the hearing, the compensation judge must issue the decision within 30 days. The decision of the compensation judge is appealable pursuant to section 176.421.

Subd. 8. [DENIAL OF PRIMARY LIABILITY.] The commissioner does

not have authority to make determinations relating to medical or rehabilitation benefits when there is a genuine dispute over whether the injury initially arose out of and in the course of employment, except as provided by section 176.305.

Subd. 9. [SUBSEQUENT CAUSATION ISSUES.] If initial liability for an injury has been admitted or established and an issue subsequently arises regarding causation between the employee's condition and the work injury, the commissioner may make the subsequent causation determination subject to de novo hearing by a compensation judge with a right to review by the court of appeals, as provided in this chapter.

Sec. 28. Minnesota Statutes 1986, section 176.111, subdivision 17, is amended to read:

Subd. 17. [PARTIAL DEPENDENTS.] Partial dependents are entitled to receive only that proportion of the benefits provided for actual dependents which the average amount of wages regularly contributed by the deceased to such partial dependents at the time of and for a reasonable time immediately prior to the injury bore to the total income of the dependent during the same time; and if the amount regularly contributed by the deceased to such partial dependents cannot be ascertained because of the circumstances of the case, the *commissioner*, compensation judge, or ~~workers' compensation~~ court of appeals, in cases upon appeal, shall make a reasonable estimate thereof taking into account all pertinent factors of the case.

Sec. 29. Minnesota Statutes 1986, section 176.133, is amended to read:

176.133 [ATTORNEY'S FEES, SUPPLEMENTARY BENEFITS.]

Attorney's fees may be approved by *the commissioner*, a compensation judge, or by the workers' compensation court of appeals from the supplementary workers' compensation benefits provided by section 176.132 if the case involves the obtaining of supplementary workers' compensation benefits. When such fees are allowed an amount equal to 25 percent of that portion of the fee which is in excess of \$250 shall be added to the employee's benefit as provided in section 176.081 rather than deducted as a portion thereof. The fees shall be determined according to section 176.081.

Sec. 30. Minnesota Statutes 1986, section 176.135, subdivision 1, is amended to read:

Subdivision 1. [MEDICAL, CHIROPRACTIC, PODIATRIC, SURGICAL, HOSPITAL.] (a) The employer shall furnish any medical, chiropractic, podiatric, surgical and hospital treatment, including nursing, medicines, medical, chiropractic, podiatric, and surgical supplies, crutches and apparatus, including artificial members, or, at the option of the employee, if the employer has not filed notice as hereinafter provided, Christian Science treatment in lieu of medical treatment, chiropractic medicine and medical supplies, as may reasonably be required at the time of the injury and any time thereafter to cure and relieve from the effects of the injury. This treatment shall include treatments necessary to physical rehabilitation. The employer shall furnish replacement or repair for artificial members, glasses, or spectacles, artificial eyes, podiatric orthotics, dental bridge work, dentures or artificial teeth, hearing aids, canes, crutches or wheel chairs damaged by reason of an injury arising out of and in the course of the employment. In case of the employer's inability or refusal seasonably to

do so the employer is liable for the reasonable expense incurred by or on behalf of the employee in providing the same. The employer shall pay for the reasonable value of nursing services by a member of the employee's family in cases of permanent total disability. ~~Except as provided in paragraph (b), orders of the commissioner with respect to this subdivision may be reviewed by the medical services review board pursuant to section 176.103. Orders of the medical services review board with respect to this subdivision may be reviewed by the workers' compensation court of appeals on petition of an aggrieved party pursuant to section 176.103. Orders of the court of appeals may be reviewed by writ of certiorari to the supreme court.~~

(b) The commissioner has authority to make determinations regarding medical causation and regarding the question whether the medical condition, which required the furnished treatment or supplies, is a consequence of the injury. Objections to any order of the commissioner with respect to this paragraph shall be referred to the chief administrative law judge for a de novo hearing before a compensation judge, with a right to review by the workers' compensation court of appeals, as provided in this chapter. *Both the commissioner and the compensation judges have authority to make determinations under this section in accordance with section 27 and section 176.305.*

Sec. 31. Minnesota Statutes 1986, section 176.135, subdivision 1a, is amended to read:

Subd. 1a. [NONEMERGENCY SURGERY; SECOND SURGICAL OPINION.] The employer is required to furnish surgical treatment pursuant to subdivision 1 ~~only after the employee has obtained two surgical opinions concerning whether when the surgery is reasonably required to cure and relieve the effects of the personal injury or occupational disease. If at least one of the opinions affirms that the surgery is reasonably required, the employee may choose to undergo the surgery. An employee may not be compelled to undergo surgery. If an employee desires a second opinion on the necessity of the surgery, the employer shall pay the costs of obtaining the second opinion.~~ The employer is required to pay the reasonable value of the surgery unless the commissioner or compensation judge determines that the surgery is not reasonably required. ~~A second surgical opinion is not required in cases of emergency surgery or when the employer and employee agree that the opinion is not necessary.~~

Sec. 32. Minnesota Statutes 1986, section 176.135, subdivision 2, is amended to read:

Subd. 2. [CHANGE OF PHYSICIANS, PODIATRISTS, OR CHIROPRACTORS.] The commissioner of the department of labor and industry shall make the necessary adopt rules for establishing standards and criteria to be used when a dispute arises over a change of physicians, podiatrists, or chiropractors in the case that either the employee or the employer desire a change and for the designation of a physician, podiatrist, or chiropractor suggested by the injured employee or the commissioner of the department of labor and industry. ~~In such case If a change is agreed upon or ordered, the expense thereof medical expenses shall be borne by the employer upon the same terms and conditions as provided in subdivision 1 and for medical, podiatric, chiropractic and surgical treatment and attendance.~~

Sec. 33. Minnesota Statutes 1986, section 176.135, subdivision 3, is amended to read:

Subd. 3. [LIMITATION OF LIABILITY.] The pecuniary liability of the employer for the treatment, articles and supplies required by this section shall be limited to the charges therefor as prevail in the same community for similar treatment, articles and supplies furnished to injured persons of a like standard of living when the same are paid for by the injured persons. On this basis the commissioner, ~~medical services review board, or workers' compensation court of appeals on appeal or compensation judge~~ may determine the reasonable value of all such services and supplies and the liability of the employer is limited to the amount so determined.

Sec. 34. Minnesota Statutes 1986, section 176.135, is amended by adding a subdivision to read:

Subd. 6. [COMMENCEMENT OF PAYMENT.] *As soon as reasonably possible, and no later than 30 calendar days after receiving the bill, the employer or insurer shall pay the charge or any portion of the charge which is not denied, deny all or a part of the charge on the basis of excessiveness or noncompensability, or specify the additional data needed, with written notification to the employee and the provider.*

Sec. 35. Minnesota Statutes 1986, section 176.135, is amended by adding a subdivision to read:

Subd. 7. [MEDICAL BILLS AND RECORDS.] *Health care providers shall submit to the insurer an itemized statement of charges as well as copies of medical records or reports that substantiate the nature of the charge and its relationship to the work injury. No charge may be made for copies of any records or reports that are in existence and directly relate to the items for which payment is sought under this chapter.*

A health care provider shall not collect, attempt to collect, refer a bill for collection, or commence an action for collection against the employee, employer, or any other party until the information required by this section has been furnished.

Sec. 36. Minnesota Statutes 1986, section 176.136, subdivision 2, is amended to read:

Subd. 2. [EXCESSIVE FEES.] If the ~~payer~~ employer or insurer determines that the charge for a health service or medical service is excessive, no payment in excess of the reasonable charge for that service shall be made under this chapter nor may the provider collect or attempt to collect from the injured employee or any other insurer or government amounts in excess of the amount payable under this chapter unless the commissioner, ~~medical services review board compensation judge, or workers' compensation court of appeals~~ determines otherwise. *In such a case, the health care provider may initiate an action under this chapter for recovery of the amounts deemed excessive by the employer or insurer, but the employer or insurer shall have the burden of proving excessiveness.*

Sec. 37. Minnesota Statutes 1986, section 176.1361, is amended to read:

176.1361 [TESTIMONY OF PROVIDERS.]

When the commissioner, a compensation judge, or the ~~workers' compensation court of appeals~~ has reason to believe that a medical or other provider of treatment services has submitted false testimony or a false report in any proceeding under this chapter, the commissioner, compensation judge, or the ~~workers' compensation court of appeals~~ shall refer the matter to an appropriate licensing body or other professional certifying organization for

review and recommendations. Based upon their recommendation, the ~~commissioner~~ *medical services review board, after hearing*, may bar the provider from making an appearance, and disallow the admission into evidence of written reports of the provider, in any proceeding under this chapter for a period not to exceed one year in the first instance and three years in the second instance, and may permanently bar the provider from appearance and the provider's reports from admission in evidence thereafter.

Sec. 38. Minnesota Statutes 1986, section 176.139, is amended to read:
176.139 [NOTICE OF RIGHTS POSTED.]

A notice, in form approved by the commissioner of labor and industry, shall be posted in a conspicuous place at each place of employment Subdivision 1. [POSTING REQUIREMENT.] All employers required or electing to carry workers' compensation coverage in the state of Minnesota shall post and display in a conspicuous location a notice, in a form approved by the commissioner, advising employees of their rights and obligations under this chapter, assistance available to them, and the operation of the workers' compensation system, the name and address of the workers' compensation carrier insuring them or the fact that the employer is self-insured.

The notice shall be displayed at all locations where the employer is engaged in business.

Subd. 2. [FAILURE TO POST; PENALTY.] The commissioner may assess a penalty of \$300 against the employer payable to the special compensation fund if, after notice from the commissioner, the employer violates the posting requirement of this section.

Sec. 39. Minnesota Statutes 1986, section 176.155, subdivision 1, is amended to read:

Subdivision 1. [EMPLOYER'S PHYSICIAN.] The injured employee must submit to examination by the employer's physician, if requested by the employer, and at reasonable times thereafter upon the employer's request. The employee is entitled upon request to have a personal physician present at any such examination. Each party shall defray the cost of that party's physician. Any report or written statement made by the employer's physician as a result of an examination of the employee, regardless of whether the examination preceded the injury or was made subsequent to the injury, shall be made available, upon request and without charge, to the injured employee or representative of the employee. The employer shall pay reasonable travel expenses incurred by the employee in attending the examination including mileage, parking, and, if necessary, lodging and meals. The employer shall also pay the employee for any lost wages resulting from attendance at the examination. A self-insured employer or insurer who is served with a claim petition pursuant to section 176.271, subdivision 1, or 176.291, shall schedule any necessary examinations of the employee, if an examination by the employer's physician or health care provider is necessary to evaluate benefits claimed. The examination shall be completed and the report of the examination shall be served on the employee and filed with the commissioner within 120 days of service of the claim petition.

No evidence relating to the examination or report shall be received or considered by the commissioner, a compensation judge, or the court of appeals in determining any issues unless the report has been served and filed as required by this section, unless a written extension has been granted

by the commissioner or compensation judge. The commissioner or a compensation judge shall extend the time for completing the adverse examination and filing the report upon good cause shown. The extension must not be for the purpose of delay and the insurer must make a good faith effort to comply with this subdivision. Good cause shall include but is not limited to:

(1) that the extension is necessary because of the limited number of physicians or health care providers available with expertise in the particular injury or disease, or that the extension is necessary due to the complexity of the medical issues, or

(2) that the extension is necessary to gather addition information which was not included on the petition as required by section 176.291.

Sec. 40. Minnesota Statutes 1986, section 176.155, subdivision 2, is amended to read:

Subd. 2. [NEUTRAL PHYSICIAN.] In each case of dispute as to the injury the commissioner of labor and industry, or in case of a hearing the compensation judge conducting the hearing, or the workers' compensation court of appeals if the matter is before it, may with or without the request of any interested party, designate a neutral physician from the list of neutral physicians developed by the commissioner of labor and industry to make an examination of the injured worker and report the findings to the commissioner of labor and industry, compensation judge, or the workers' compensation court of appeals, as the case may be; provided that the request of the interested party must comply with the rules of the commissioner of labor and industry and the workers' compensation court of appeals regulating the proper time and forms for the request, and further provided that when an interested party requests, not later than 30 days prior to a scheduled prehearing conference, that a neutral physician be designated, the compensation judge shall make such a designation. When a party has requested the designation of a neutral physician prior to a prehearing conference, that party may withdraw the request at any time prior to the hearing. The commissioner of labor and industry, compensation judge, or the workers' compensation court of appeals, as the case may be, may request the neutral physician to answer any particular question with reference to the medical phases of the case, including questions calling for an opinion as to the cause and occurrence of the injury insofar as medical knowledge is relevant in the answer. A copy of the signed certificate of the neutral physician shall be mailed to the parties in interest and either party, within five days from date of mailing, may demand that the physician be produced for purposes of cross-examination. The signed certificate of a neutral physician is competent evidence of the facts stated therein. The expense of the examination shall be paid as ordered by the commissioner of labor and industry, compensation judge, or the workers' compensation court of appeals. *The neutral physician must also send a copy of the signed certificate to the medical services review board. If the board determines that the physician's certificate indicates a pattern of a lack of neutrality, the commissioner must remove the physician from the list of neutrals.*

The commissioner of labor and industry shall develop and maintain a list of neutral physicians available for designation pursuant to this subdivision or section 176.391, subdivision 2.

Sec. 41. Minnesota Statutes 1986, section 176.155, subdivision 3, is amended to read:

Subd. 3. [REFUSAL TO BE EXAMINED.] If the injured employee refuses to comply with any reasonable request for examination, the right to compensation may be suspended by order of the ~~division, commissioner or a compensation judge or workers' compensation court of appeals in a matter before it~~, and no compensation shall be paid while the employee continues in the refusal.

Sec. 42. Minnesota Statutes 1986, section 176.155, subdivision 5, is amended to read:

Subd. 5. [TESTIMONY OF HEALTH CARE PROVIDER.] Any physician or other health care provider designated by the commissioner, or compensation judge, ~~or workers' compensation court of appeals~~ or whose services are furnished or paid for by the employer, ~~or who treats, examines, or is present at any examination~~, of an injured employee, may be required to testify as to any knowledge acquired by the physician or health care provider in the course of the treatment or examination relative to the injury or disability resulting from the injury only ~~if the commissioner or a compensation judge makes a written finding that the appearance of the physician or health care provider is crucial to the accurate determination of the employee's disability in cases involving occupational disease, cardiopulmonary injuries or diseases, injuries resulting from cumulative trauma, issues of apportionment of liability, and mental disorders, or upon an order of a compensation judge.~~ In all other cases all evidence related to health care must be submitted by written report as prescribed by the chief administrative law judge. A party may cross-examine by deposition a physician or health care provider who has examined or treated the employee. If a physician or health care provider is not available for cross-examination prior to the hearing and the physician's or health care provider's written report is submitted at the hearing, the compensation judge shall, upon request of the adverse party, require the physician or health care provider to testify at the hearing ~~or to be present at a posthearing deposition~~ for the purpose of being cross-examined by the adverse party. All written evidence relating to health care must be submitted prior to or at the time of the hearing and no evidence shall be considered which was submitted after the hearing unless the compensation judge orders otherwise, ~~and, in no case later than 30 days following the final hearing date unless an extension is granted by the compensation judge. Existing medical reports must be submitted with a claim petition or answer as provided in sections 176.291 and 176.321. All reports shall substantially conform to rules prescribed by the chief administrative law judge. When a written report is used to present the testimony, it shall be admitted into evidence without the necessity for foundational testimony and shall be considered as prima facie evidence of the opinions it contains.~~

Sec. 43. Minnesota Statutes 1986, section 176.179, is amended to read:

176.179 [PAYMENTS OF COMPENSATION RECEIVED IN GOOD FAITH.]

Notwithstanding section 176.521, subdivision 3, or any other provision of this chapter to the contrary, except as provided in this section, no lump sum or weekly payment, or settlement, which is voluntarily paid to an injured employee or the survivors of a deceased employee in apparent or seeming accordance with the provisions of this chapter by an employer or insurer, or is paid pursuant to an order of the workers' compensation di-

vision, a compensation judge, or court of appeals relative to a claim by an injured employee or the employee's survivors, and received in good faith by the employee or the employee's survivors shall be refunded to the paying employer or insurer in the event that it is subsequently determined that the payment was made under a mistake in fact or law by the employer or insurer. When the payments have been made to a person who is entitled to receive further payments of compensation for the same injury, the mistaken compensation may be taken as a full credit against future lump sum benefit entitlement and as a partial credit against future weekly benefits. The credit applied against further payments of temporary total disability, temporary partial disability, permanent total disability, retraining benefits, death benefits, or weekly payments of economic recovery or impairment compensation shall not exceed 20 percent of the amount that would otherwise be payable.

A credit may not be applied against medical expenses due or payable.

Sec. 44. Minnesota Statutes 1986, section 176.185, is amended by adding a subdivision to read:

Subd. 5a. [PENALTY FOR IMPROPER WITHHOLDING.] An employer who violates subdivision 5 after notice from the commissioner is subject to a penalty of 200 percent of the amount withheld from or charged the employee. The penalty shall be imposed by the commissioner. Fifty percent of this penalty is payable to the special compensation fund and 50 percent is payable to the employee.

Sec. 45. Minnesota Statutes 1986, section 176.191, subdivision 1, is amended to read:

Subdivision 1. Where compensation benefits are payable under this chapter, and a dispute exists between two or more employers or two or more insurers as to which is liable for payment, the commissioner, compensation judge, or ~~workers' compensation~~ court of appeals upon appeal shall direct, unless action is taken under subdivision 2, that one or more of the employers or insurers make payment of the benefits pending a determination of liability. *A temporary order may be issued under this subdivision whether or not the employers or insurers agree to pay under the order.*

When liability has been determined, the party held liable for the benefits shall be ordered to reimburse any other party for payments which the latter has made, including interest at the rate of 12 percent a year. The claimant shall also be awarded a reasonable attorney fee, to be paid by the party held liable for the benefits.

An order directing payment of benefits pending a determination of liability may not be used as evidence before a compensation judge, the workers' compensation court of appeals, or court in which the dispute is pending.

Sec. 46. Minnesota Statutes 1986, section 176.191, subdivision 2, is amended to read:

Subd. 2. Where compensation benefits are payable under this chapter, and a dispute exists between two or more employers or two or more insurers as to which is liable for payment, the commissioner or a compensation judge upon petition shall ~~authorize order~~, unless action is taken under subdivision 1, the special compensation fund established in section 176.131 to make payment of the benefits pending a determination of liability.

The personal injury for which the commissioner or a compensation judge shall order compensation from the special fund is not limited by section 176.131, subdivision 8.

When liability has been determined, the party held liable for benefits shall be ordered to reimburse the special compensation fund for payments made, including interest at the rate of 12 percent a year.

Sec. 47. [176.194] [PROHIBITED PRACTICES.]

Subdivision 1. [CLAIMS PRACTICES.] Notwithstanding section 72A.20, subdivision 12a, paragraph (j), any insurer authorized to sell workers' compensation insurance pursuant to section 60A.06, subdivision 1, clause (5), item (b), or any employer authorized to self-insure workers' compensation liability pursuant to section 176.181, subdivision 2, shall be subject to sections 72A.17 to 72A.325 and rules adopted pursuant thereto relating to the regulation of trade practices, except (a) to the extent that the nature of workers' compensation insurance of self-insurance renders such sections clearly inappropriate and (b) that enforcement shall be by the commissioner of labor and industry and not the commissioner of commerce.

Subd. 2. [SELF-INSURANCE AUTHORITY.] In addition to any other penalties imposed for violation of subdivision 1, the commissioner of labor and industry may revoke the authority of any employer to self-insure granted under section 176.181. The commissioner of labor and industry shall advise the commissioner of commerce immediately of the revocation.

Sec. 48. Minnesota Statutes 1986, section 176.195, is amended by adding a subdivision to read:

Subd. 1b. [AGENTS.] For purposes of this section and section 47, an adjuster licensed pursuant to section 72B.03, subdivision 2, clause (a), who acts on behalf of an insurer, self-insured, employer plan administrator, or vendor of risk management services licensed pursuant to section 60A.23, subdivision 8, shall be deemed to be an agent of the insurer, self-insurer, vendor, or the assigned risk plan established pursuant to sections 79.251 and 79.252 on whose behalf the adjuster acts. A violation of this section or section 47 by an adjuster shall, in addition to other violations enumerated, be a cause for denial, suspension, or revocation of an adjuster's license pursuant to section 72B.08.

Sec. 49. Minnesota Statutes 1986, section 176.195, subdivision 3, is amended to read:

Subd. 3. [COMPLAINT, ANSWER; HEARING.] A complaint against an insurer shall include a notice and order for hearing, shall be in writing and shall specify clearly the grounds upon which the license is sought to be suspended or revoked. The insurer may shall file a written answer to the complaint and is entitled to receive a hearing in its own behalf before the commissioner of commerce within 20 days of service of the complaint. The hearing shall be conducted under chapter 14.

Sec. 50. Minnesota Statutes 1986, section 176.195, is amended by adding a subdivision to read:

Subd. 5a. [CIVIL PENALTIES.] After a hearing as provided in this section, the commissioner may impose a civil penalty of not more than \$5,000 for each offense.

Sec. 51. Minnesota Statutes 1986, section 176.221, subdivision 1, is

amended to read:

Subdivision 1. [COMMENCEMENT OF PAYMENT.] Within 14 days of notice to or knowledge by the employer of an injury compensable under this chapter the payment of temporary total compensation shall commence. Within 14 days of notice to or knowledge by an employer of a new period of temporary total disability which is caused by an old injury compensable under this chapter, the payment of temporary total compensation shall commence; provided that the employer or insurer may file for an extension with the commissioner within this 14-day period, in which case the compensation need not commence within the 14-day period but shall commence no later than 30 days from the date of the notice to or knowledge by the employer of the new period of disability. Commencement of payment by an employer or insurer does not waive any rights to any defense the employer has on any claim or incident either with respect to the compensability of the claim under this chapter or the amount of the compensation due. Where there are multiple employers, the first employer shall pay, unless it is shown that the injury has arisen out of employment with the second or subsequent employer. Liability for compensation under this chapter may be denied by the employer or insurer by giving the employee written notice of the denial of liability. If liability is denied for an injury which is required to be reported to the commissioner under section 176.231, subdivision 1, the denial of liability must be filed with the commissioner within 14 days after notice to or knowledge by the employer of an injury which is alleged to be compensable under this chapter. If the employer or insurer has commenced payment of compensation under this subdivision but determines within 30 days of notice to or knowledge by the employer of the injury that the disability is not a result of a personal injury, payment of compensation may be terminated upon the filing of a notice of denial of liability within 30 days of notice or knowledge. After the 30-day period, payment may be terminated only by the filing of a notice as provided under section 176.242 60. Upon the termination, payments made may be recovered by the employer if the commissioner or compensation judge finds that the employee's claim of work related disability was not made in good faith. A notice of denial of liability must state in detail specific reasons explaining why the claimed injury or occupational disease was determined not to be within the scope and course of employment and shall include the name and telephone number of the person making this determination.

Sec. 52. Minnesota Statutes 1986, section 176.221, subdivision 3, is amended to read:

Subd. 3. [PENALTY.] If the employer or insurer does not begin payment of compensation within the time limit prescribed under subdivision 1 or 8, the commissioner may assess a penalty, payable to the special compensation fund, ~~of up to 100 percent which shall be a percentage of the amount of compensation to which the employee is entitled because of the injury to receive up to the date compensation payment is made to the employee or the compensation to which the employee is entitled to receive up to the date the penalty is imposed; in addition to any other penalty otherwise provided by statute. This penalty may also be imposed on an employer or insurer who violates section 176.242 or 176.243 including, but not limited to, violating the commissioner's decision not to discontinue compensation.~~

The amount of penalty shall be determined as follows:

<i>Numbers of days late</i>	<i>Penalty</i>
<i>1 - 15</i>	<i>25 percent of compensation due, not to exceed \$375,</i>
<i>16 - 30</i>	<i>50 percent of compensation due, not to exceed \$1,140,</i>
<i>31 - 60</i>	<i>75 percent of compensation due, not to exceed \$2,878,</i>
<i>61 or more</i>	<i>100 percent of compensation due, not to exceed \$3,838.</i>

The penalty under this section is in addition to any penalty otherwise provided by statute.

Sec. 53. Minnesota Statutes 1986, section 176.221, subdivision 7, is amended to read:

Subd. 7. [INTEREST.] Any payment of ~~compensation~~, charges for treatment under section 176.135 or rehabilitation expenses under 176.102, subdivision 9 not made when due shall bear interest at the rate of eight percent a year from the due date to the date the payment is made or the rate set by section 549.09, subdivision 1, whichever is greater. *Any compensation due and payable to an employee or to the dependents of an employee that is not paid when due, whether due periodically or otherwise, and penalties assessed under this chapter, shall bear interest at the rate of 15 percent a year, computed from the due date to the date of payment.*

For the purposes of this subdivision, permanent partial disability payment is due 14 days after receipt of the first medical report which contains a disability rating if such payment is otherwise due under this chapter, and charges for treatment under section 176.135 are due 30 calendar days after receiving the bill and necessary medical data.

If the claim of the employee or dependent for compensation is contested in a proceeding before a compensation judge or the commissioner, the decision of the judge or commissioner shall provide for the payment of unpaid interest on all compensation awarded, including interest accruing both before and after the filing of the decision.

Sec. 54. Minnesota Statutes 1986, section 176.225, subdivision 1, is amended to read:

Subdivision 1. [GROUNDS.] Upon reasonable notice and hearing or opportunity to be heard, the ~~division commissioner~~, a compensation judge, or upon appeal, the ~~workers' compensation~~ court of appeals or the supreme court may award compensation, in addition to the total amount of compensation award, of up to 25 percent of that total amount where an employer or insurer has:

- (a) instituted a proceeding or interposed a defense which does not present a real controversy but which is frivolous or for the purpose of delay; or,
- (b) unreasonably or vexatiously delayed payment; or,

(c) neglected or refused to pay compensation; or,

(d) intentionally underpaid compensation; or

(e) unreasonably or vexatiously discontinued compensation in violation of ~~section 176.242~~ *sections 59 and 60*.

Sec. 55. Minnesota Statutes 1986, section 176.225, subdivision 4, is amended to read:

Subd. 4. [HEARING BEFORE COMMISSIONER OF COMMERCE.] Upon receipt of a complaint filed under subdivision 3, the commissioner of commerce shall hear and determine the matter in the manner provided by ~~this chapter 14~~. On finding that a charge made by the complaint is true, the commissioner of commerce ~~shall~~ *may suspend or* revoke the license of the insurer to do business in this state. The insurer may appeal from the action of the commissioner revoking the license in the manner provided in ~~this chapter 14~~.

Sec. 56. Minnesota Statutes 1986, section 176.231, subdivision 2, is amended to read:

Subd. 2. [INITIAL REPORT, WRITTEN REPORT.] Where subdivision 1 requires an injury to be reported within 48 hours, the employer may make an initial report by telephone, telegraph, or personal notice, and file a written report of the injury within seven days from its occurrence or within such time as the commissioner of labor and industry designates. All written reports of injuries required by subdivision 1 shall include the date of injury, amounts of payments made, if any, and the date of the first payment. The reports shall be ~~in quadruplicate~~ on a form designed by the commissioner, with ~~two copies~~ *the original* to the commissioner and, ~~one copy~~ *one copy* to the insurer, ~~and one copy to the employee~~.

If an insurer or self-insurer repeatedly fails to pay benefits within three days of the due date, pursuant to section 176.221, the insurer or self-insurer shall be ordered by the commissioner to explain, in person, the failure to pay benefits due in a reasonable time. If prompt payments are not thereafter made, the commissioner shall refer the insurer or self-insurer to the commissioner of commerce for action pursuant to section 176.225, subdivision 4.

Sec. 57. Minnesota Statutes 1986, section 176.231, subdivision 10, is amended to read:

Subd. 10. [FAILURE TO FILE REQUIRED REPORT, PENALTY.] If an employer, *insurer*, physician, chiropractor, or other health provider fails to file with the commissioner any report required by this section in the manner and within the time limitations prescribed, or otherwise fails to provide a report required by this section in the manner provided by this section, the commissioner may impose a penalty of up to \$200 for each failure.

The imposition of a penalty may be appealed to a compensation judge within 30 days of notice of the penalty.

Penalties collected by the state under this subdivision shall be paid into the special compensation fund.

Sec. 58. Minnesota Statutes 1986, section 176.231, is amended by adding a subdivision to read:

Subd. 11. [FAILURE TO FILE REQUIRED REPORT; SUBSTITUTE

FILING.] *Where this section requires the employer to file a report of injury with the commissioner, and the employer is unable or refuses to file the report, the insurer shall file the report within ten days of a request from the division. The report shall be filed in the manner prescribed by this section. If both the employer and the insurer fail to file the report within 30 days of notice of the injury, the commissioner shall file the report.*

The filing of a report of injury by the commissioner does not subject an employee or the dependents of an employee to the three-year time limitations under section 176.151, paragraphs (1) and (2).

A substitute filing under this subdivision shall not be a defense to a penalty assessed under subdivision 10.

Sec. 59. [176.238] [NOTICE OF DISCONTINUANCE OF TEMPORARY TOTAL, TEMPORARY PARTIAL, OR PERMANENT TOTAL COMPENSATION.]

Subdivision 1. [NECESSITY FOR NOTICE AND SHOWING; CONTENTS.] *Except as provided in section 176.221, subdivision 1, once the employer has commenced payment of benefits, the employer may not discontinue payment of compensation until it provides the employee with notice in writing of intention to do so. A copy of the notice shall be filed with the division by the employer. The notice to the employee and the copy to the division shall state the date of intended discontinuance and set forth a statement of facts clearly indicating the reason for the action. Copies of whatever medical reports or other written reports in the employer's possession which are relied on for the discontinuance shall be attached to the notice.*

Subd. 2. [CONTINUANCE OF EMPLOYER'S LIABILITY; SUSPENSION.] (a) [DISCONTINUANCE BECAUSE OF RETURN TO WORK.] *If the reason for discontinuance is that the employee has returned to work, temporary total compensation may be discontinued effective the day the employee returned to work. Written notice shall be served on the employee and filed with the division within 30 days of the date the employer has notice that the employee has returned to work.*

(b) [DISCONTINUANCE FOR REASONS OTHER THAN RETURN TO WORK.] *If the reason for the discontinuance is for other than that the employee has returned to work, the liability of the employer to make payments of compensation continues until the copy of the notice and reports have been filed with the division. When the division has received a copy of the notice of discontinuance, the statement of facts and available medical reports, the duty of the employer to pay compensation is suspended, except as provided in the following subdivisions and in section 60.*

Subd. 3. [INTERIM ADMINISTRATIVE DECISION.] *An employee may request the commissioner to schedule an administrative discontinuance conference to obtain an expedited interim decision concerning the discontinuance of compensation. Procedures relating to discontinuance conferences are set forth in section 60.*

Subd. 4. [OBJECTION TO DISCONTINUANCE.] *An employee may serve on the employer and file with the commissioner an objection to discontinuance if:*

(a) the employee elects not to request an administrative conference under section 60;

(b) if the employee fails to timely proceed under that section;

(c) if the discontinuance is not governed by that section; or

(d) if the employee disagrees with the commissioner's decision issued under that section. Within ten calendar days after receipt of an objection to discontinuance, the commissioner shall refer the matter to the office for a de novo hearing before a compensation judge to determine the right of the employee to further compensation.

Subd. 5. [PETITION TO DISCONTINUE.] Instead of filing a notice of discontinuance, an employer may serve on the employee and file with the commissioner a petition to discontinue compensation. A petition to discontinue compensation may also be used when the employer disagrees with the commissioner's decision under section 60. Within ten calendar days after receipt of a petition to discontinue, the commissioner shall refer the matter to the office for a de novo hearing before a compensation judge to determine the right of the employer to discontinue compensation.

The petition shall include copies of medical reports or other written reports or evidence in the possession of the employer bearing on the physical condition or other present status of the employee which relate to the proposed discontinuance. The employer shall continue payment of compensation until the filing of the decision of the compensation judge and thereafter as the compensation judge, court of appeals, or the supreme court directs, unless, during the interim, occurrences arise justifying the filing of a notice under subdivision 1 or 2 and the discontinuance is permitted by the commissioner's order or no conference under section 60 is requested.

Subd. 6. [EXPEDITED HEARING BEFORE A COMPENSATION JUDGE.] A hearing before a compensation judge shall be scheduled within 30 calendar days after the office receives the file from the commissioner if:

(a) an objection to discontinuance has been filed under subdivision 4 within 60 calendar days after the notice of discontinuance was filed and where no administrative conference has been held;

(b) an objection to discontinuance has been filed under subdivision 4 within 60 calendar days after the commissioner's decision under this section has been issued;

(c) a petition to discontinue has been filed by the insurer in lieu of filing a notice of discontinuance; or

(d) a petition to discontinue has been filed within 60 calendar days after the commissioner's decision under this section has been issued.

If the petition or objection is filed later than the deadlines listed above, the expedited procedures in this section apply only where the employee is unemployed at the time of filing the objection and shows, to the satisfaction of the chief administrative judge, by sworn affidavit, that the failure to file the objection within the deadlines was due to some infirmity or incapacity of the employee or to circumstances beyond the employee's control. The hearing shall be limited to the issues raised by the notice or petition unless all parties agree to expanding the issues. If the issues are expanded, the time limits for hearing and issuance of a decision by the compensation judge under this subdivision shall not apply.

Once a hearing date has been set, a continuance of the hearing date will be granted only under the following circumstances:

(a) the employer has agreed, in writing, to a continuation of the payment of benefits pending the outcome of the hearing; or

(b) the employee has agreed, in a document signed by the employee, that benefits may be discontinued pending the outcome of the hearing.

Absent a clear showing of surprise at the hearing or the unexpected unavailability of a crucial witness, all evidence must be introduced at the hearing. If it is necessary to accept additional evidence or testimony after the scheduled hearing date, it must be submitted no later than 14 days following the hearing, unless the compensation judge, for good cause, determines otherwise.

The compensation judge shall issue a decision pursuant to this subdivision within 30 days following the close of the hearing record.

Subd. 7. [ORDER OF COMPENSATION JUDGE.] If the order of the compensation judge confirms a discontinuance of compensation, the service and filing of the order relieves the employer from further liability for compensation subject to the right of review provided by this chapter, and to the right of the compensation judge to set aside the order at any time prior to the review and to grant a new hearing pursuant to this chapter. Once an appeal to the workers' compensation court of appeals is filed, a compensation judge may not set aside the order. In any appeal from the compensation judge's decision under this section, the court of appeals shall conclude any oral arguments by the parties within 60 days following certification of the record from the office.

Subd. 8. [NOTICE FORMS.] Notices under this section shall be on forms prescribed by the commissioner.

Subd. 9. [SERVICE ON ATTORNEY.] If the employee is presently represented by an attorney for the same injury, all notices required by this section shall also be served on the attorney.

Subd. 10. [FINES; VIOLATION.] An employer who violates requirements set forth in this section or section 60 is subject to a fine of up to \$500 for each violation payable to the special compensation fund.

Subd. 11. [APPLICATION OF SECTION.] This section shall not apply to those employees who have been adjudicated permanently totally disabled, or to those employees who have been administratively determined pursuant to division rules to be permanently totally disabled.

Sec. 60. [176.239] [ADMINISTRATIVE DECISION CONCERNING DISCONTINUANCE OF COMPENSATION.]

Subdivision 1. [PURPOSE.] The purpose of this section is to provide a procedure for parties to obtain an expedited interim administrative decision in disputes over discontinuance of temporary total, temporary partial, or permanent total compensation.

Subd. 2. [REQUEST FOR ADMINISTRATIVE CONFERENCE.] If the employee disagrees with the notice of discontinuance, the employee may request that the commissioner schedule an administrative conference to be conducted pursuant to this section.

If temporary total, temporary partial, or permanent total compensation has been discontinued because the employee has returned to work, and the employee believes benefits should be reinstated due to occurrences during the initial 14 calendar days of the employee's return to work, the employee's request must be received by the commissioner within 21 calendar days after the employee has returned to work. If the employer has failed to properly serve and file the notice as provided in section 59, the employee's time period to request an administrative conference is extended up to and including the 40th calendar day subsequent to the return to work.

If temporary total, temporary partial, or permanent total compensation has been discontinued for a reason other than a return to work, the employee's request must be received by the commissioner within 12 calendar days after the notice of discontinuance is received by the commissioner. If the employer discontinues compensation without giving notice as required by section 59, the employee's time period for requesting an administrative conference is extended up to and including the 40th calendar day after which the notice should have been served and filed.

The commissioner may determine that an administrative conference is not necessary under this section for reasons prescribed by rule and permit the employer to discontinue compensation, subject to the employee's right to file an objection to discontinuance under section 59, subdivision 4.

In lieu of making a written request for an administrative conference with the commissioner, an employee may make an in-person or telephone request for the administrative conference.

Subd. 3. [PAYMENT THROUGH DATE OF DISCONTINUANCE CONFERENCE.] *If a notice of discontinuance has been served and filed due to the employee's return to work, and the employee requests a conference, the employer is not obligated to reinstate or otherwise pay temporary total, temporary partial, or permanent total compensation unless so ordered by the commissioner.*

When an administrative conference is conducted under circumstances in which the employee has not returned to work, compensation shall be paid through the date of the administrative conference unless:

- (a) the employee has returned to work since the notice was filed;*
- (b) the employee fails to appear at the scheduled administrative conference; or*
- (c) due to unusual circumstances or pursuant to the rules of the division, the commissioner orders otherwise.*

Subd. 4. [SCHEDULING OF CONFERENCE.] *If the employee timely requests an administrative conference under this section, the commissioner shall schedule a conference within ten calendar days after receiving the request.*

Subd. 5. [CONTINUANCES.] *An employee or employer may request a continuance of a scheduled administrative conference. If the commissioner determines there is good cause for a continuance, the commissioner may grant the continuance for not more than 14 calendar days unless the parties agree to a longer continuance. If compensation is payable through the day of the administrative conference pursuant to subdivision 3, and the employee is granted a continuance, compensation need not be paid during*

the period of continuance unless the commissioner orders otherwise. If the employer is granted a continuance and compensation is payable through the day of the administrative conference pursuant to subdivision 3, then compensation shall continue to be paid during the continuance. The commissioner may grant an unlimited number of continuances provided that payment of compensation during any continuance is subject to this subdivision.

Subd. 6. [SCOPE OF THE ADMINISTRATIVE DECISION.] *If benefits have been discontinued due to the employee's return to work, the commissioner shall determine whether, as a result of occurrences arising during the initial 14 calendar days after the return to work, the employee is entitled to additional payment of temporary total, temporary partial, or permanent total compensation.*

If periodic payment of temporary total, temporary partial, or permanent total compensation has been discontinued for reasons other than a return to work, the commissioner shall determine whether the employer has reasonable grounds to support the discontinuance. Only information or reasons specified on the notice of discontinuance shall provide a basis for a discontinuance, unless the parties agree otherwise.

Subd. 7. [INTERIM ADMINISTRATIVE DECISION.] *After considering the information provided by the parties at the administrative conference, the commissioner shall issue to all interested parties a written decision on payment of compensation. Administrative decisions under this section shall be issued within five working days from the close of the conference. Disputed issues of fact shall be determined by a preponderance of the evidence.*

Subd. 8. [DISAGREEMENT WITH ADMINISTRATIVE DECISION.] *An employee who disagrees with the commissioner's decision under this section may file an objection to discontinuance under section 59, subdivision 4. An employer who disagrees with the commissioner's decision under this section may file a petition to discontinue under section 59, subdivision 5.*

Subd. 9. [ADMINISTRATIVE DECISION BINDING; EFFECT OF SUBSEQUENT DETERMINATIONS.] *The commissioner's decision under this section is binding upon the parties and the rights and obligations of the parties are governed by the decision.*

If an objection or a petition is filed under subdivision 8, the commissioner's administrative decision remains in effect and the parties' obligations or rights to pay or receive compensation are governed by the commissioner's administrative decision, pending a determination by a compensation judge pursuant to section 59, subdivision 6.

If the commissioner has denied a discontinuance or otherwise ordered commencement of benefits, the employer shall continue paying compensation until an order is issued by a compensation judge, the court of appeals, or the supreme court, allowing compensation to be discontinued, or unless, during the interim, occurrences arise justifying the filing of a notice under section 59, subdivision 1 or 2, and the discontinuance is permitted by the commissioner or no conference is requested. If a compensation judge, the court of appeals, or the supreme court later rules that the discontinuance was proper or that benefits were otherwise not owing the employee, payments made under the commissioner's administrative

decision and order shall be treated as an overpayment which the insurer may recover from the employee subject to section 176.179.

If the commissioner has permitted a discontinuance or otherwise not ordered commencement of benefits, the service and filing of the administrative decision relieves the employer from further liability for compensation subject to the right of review afforded by this chapter.

Subd. 10. [APPLICATION OF SECTION.] This section is applicable to all cases in which the employee's request for an administrative conference is received by the division after the effective date of this section even if the injury occurred prior to the effective date. This section shall not apply to those employees who have been adjudicated permanently totally disabled, or to those employees who have been administratively determined pursuant to division rules to be permanently totally disabled.

Sec. 61. Minnesota Statutes 1986, section 176.271, subdivision 1, is amended to read:

Subdivision 1. Unless otherwise provided by this chapter or by the commissioner of labor and industry, all proceedings before the division under this chapter are initiated by the filing of a written petition on a prescribed form with the commissioner of labor and industry at the commissioner's principal office. All claim petitions shall include the information required by section 176.291.

Sec. 62. Minnesota Statutes 1986, section 176.275, is amended to read:

176.275 [FILING OF PAPERS; PROOF OF SERVICE.]

Subdivision 1. [FILING.] If a document is required to be filed by this chapter or any rules adopted pursuant to authority granted by this chapter, the filing shall be completed by the receipt of the document at the division, department, office, or the court of appeals. The workers' compensation division, department, office, and the workers' compensation court of appeals shall file accept any paper document which has been delivered to it for legal filing immediately upon its receipt in the office of the commissioner of the department of labor and industry. The commissioner of the department of labor and industry shall file any paper which has been delivered to the commissioner for filing immediately upon its receipt.

A notice or other document required to be served or filed at either the department, the office, or the court of appeals which is inadvertently served or filed at the wrong one of these agencies shall be deemed to have been served or filed with the proper agency. The receiving agency shall note the date of receipt of a document and shall forward the documents to the proper agency no later than two working days following receipt.

Subd. 2. [PROOF OF SERVICE.] Whenever a provision of this chapter or rules adopted pursuant to authority granted by this chapter require either a proof of service or affidavit of service, the requirement is satisfied by the inclusion of a proof of service on the document which has been served, in a form acceptable by the state district courts or approved by the commissioner.

Sec. 63. Minnesota Statutes 1986, section 176.291, is amended to read:

176.291 [DISPUTES AND DEFAULTS; PETITIONS; PROCEDURE.]

Where there is a dispute as to a question of law or fact in connection with a claim for compensation, or where there has been a default in the

payment of compensation for a period of ten days, a party may present serve on all other parties and file a verified notarized petition to with the commissioner stating the matter in dispute or the fact of default. The petition shall be on a form prescribed by the commissioner.

The petition shall also state and include, where applicable:

- (1) names and residence or business address of parties;
- (2) facts relating to the employment at the time of injury, including amount of wages received;
- (3) extent and character of injury;
- (4) notice to or knowledge by employer of injury;
- (5) facts which the commissioner by rule requires; and,
- (6) such other facts as are necessary for the information of the commissioner, a compensation judge or the workers' compensation court of appeals copies of written medical reports or other information in support of the claim;
- (6) names and addresses of all known witnesses intended to be called in support of the claim;
- (7) the desired location of any hearing and estimated time needed to present evidence at the hearing;
- (8) any requests for a prehearing or settlement conference;
- (9) a list of all known third parties, including the departments of human services and jobs and training, who may have paid any medical bills or other benefits to the employee for the injuries or disease alleged in the petition or for the time the employee was unable to work due to the injuries or disease, together with a listing of the amounts paid by each;
- (10) the nature and extent of the claim; and
- (11) a request for an expedited hearing which must include an attached affidavit of significant financial hardship which complies with the requirements of section 79.

Incomplete petitions may be stricken from the calendar as provided by section 68. Within 30 days of a request by a party, an employee who has filed a claim petition pursuant to section 176.271 or this section shall furnish a list of physicians and health care providers from whom the employee has received treatment for the same or a similar condition as well as authorizations to release relevant information, data, and records to the requester. The petition may be stricken from the calendar upon motion of a party for failure to timely provide the required list of health care providers or authorizations.

Sec. 64. Minnesota Statutes 1986, section 176.301, subdivision 1, is amended to read:

Subdivision 1. [TRIAL BY COURT; REFERENCE TO COMMISSIONER CHIEF ADMINISTRATIVE LAW JUDGE.] When a workers' compensation issue has been joined is present in the district court action, the court may try the action itself without a jury, or refer the matter to the commissioner. In the latter case, the commissioner shall refer the matter to the chief administrative law judge for assignment to a compensation judge. The compensation judge shall report findings and decisions to the

district court. The court may approve or disapprove such decision in the same manner as it approves or disapproves the report of a referee. The court shall enter judgment upon such decision.

Sec. 65. Minnesota Statutes 1986, section 176.305, subdivision 1, is amended to read:

Subdivision 1. [HEARINGS ON PETITIONS.] The petitioner shall serve a copy of the petition on each adverse party personally or by first class mail. The original petition shall then be filed with the commissioner together with an appropriate affidavit of service. When any petition has been filed with the workers' compensation division, the commissioner shall, within ten days, refer the matter presented by the petition to a ~~settlement judge. The settlement judge shall schedule a settlement conference if appropriate within 60 days. If a settlement conference is not appropriate, or if such a conference or conferences do not result in progress toward a settlement, the settlement judge shall certify the matter for a hearing before a compensation judge and shall refer the matter to the chief administrative law judge to be heard by a compensation judge for a settlement conference under this section, for an administrative conference under section 27, or for hearing to the office.~~

Sec. 66. Minnesota Statutes 1986, section 176.305, is amended by adding a subdivision to read:

Subd. 1a. [SETTLEMENT AND PRETRIAL CONFERENCES; SUMMARY DECISION.] *The commissioner shall schedule a settlement conference, if appropriate, within 60 days after receiving the petition. All parties must appear at the conference, either personally or by representative, must be prepared to discuss settlement of all issues, and must be prepared to discuss or present the information required by the joint rules of the division and the office. If a representative appears on behalf of a party, the representative must have authority to fully settle the matter.*

If settlement is not reached, the presiding officer may require the parties to present copies of all documentary evidence not previously filed and a summary of the evidence they will present at a formal hearing. If appropriate, a written summary decision shall be issued within ten days after the conference stating the issues and a determination of each issue. If a party fails to appear at the conference, all issues may be determined contrary to the absent party's interest, provided the party in attendance presents a prima facie case.

The summary decision is final unless a written request for a formal hearing is served on all parties and filed with the commissioner within 30 days after the date of service and filing of the summary decision. Within ten days after receipt of the request, the commissioner shall certify the matter to the office for a de novo hearing.

Sec. 67. Minnesota Statutes 1986, section 176.305, subdivision 2, is amended to read:

Subd. 2. [COPY OF PETITION.] The commissioner shall deliver the original petition and answer, after certification for a hearing ~~before a compensation judge by a settlement judge~~, to the office of administrative hearings for assignment to a compensation judge.

Sec. 68. Minnesota Statutes 1986, section 176.305, is amended by adding a subdivision to read:

Subd. 4. [STRIKING FROM CALENDAR.] A compensation judge or the commissioner, after receiving a properly served motion, may strike a case from the active trial calendar after the employee has been given 30 days to correct the deficiency if it is shown that the information on the petition or included with the petition is incomplete. Once a case is stricken, it may not be reinstated until the missing information is provided to the adverse parties and filed with the commissioner or compensation judge. If a case has been stricken from the calendar for one year or more and no corrective action has been taken, the commissioner or a compensation judge may, upon the commissioner's or judge's own motion or a motion of a party which is properly served on all parties, dismiss the case. The petitioner must be given at least 30 days advance notice of the proposed dismissal before the dismissal is effective.

Sec. 69. Minnesota Statutes 1986, section 176.306, subdivision 1, is amended to read:

Subdivision 1. [CHIEF ADMINISTRATIVE LAW JUDGE.] The chief administrative law judge shall schedule workers' compensation hearings on as regular a schedule as may be practicable in no fewer than six widely separated locations throughout the state, including at least four locations outside of the seven county metropolitan area and Duluth, for the purpose of providing a convenient forum for parties to a compensation hearing and shall maintain a permanent office in Duluth staffed by at least one compensation judge. *Continuances of the scheduled hearing date may be granted only under section 77.*

Sec. 70. Minnesota Statutes 1986, section 176.306, is amended by adding a subdivision to read:

Subd. 3. [SCHEDULING MATTERS.] A compensation judge may schedule a pretrial or settlement conference, whether or not a party requests such a conference.

Sec. 71. Minnesota Statutes 1986, section 176.312, is amended to read:

176.312 [AFFIDAVIT AFFIDAVITS OF PREJUDICE AND PETITIONS FOR REASSIGNMENT.]

In accordance with rules adopted by the chief administrative law judge, an affidavit of prejudice for cause may be filed by a party to the claim against a compensation judge, in the same manner as an affidavit of prejudice is filed pursuant to law or rule of district court assigned to hear a case. The filing of an affidavit of prejudice against a compensation judge has the same effect and shall be treated in the same manner as in district court.

A petition for reassignment of a case to a different compensation judge for hearing may be filed once, in any case, by a party to the claim within ten days after the filing party has received notice of the assigned judge. Upon receipt of a timely petition for reassignment, the chief administrative law judge shall assign the case to another judge.

An affidavit of prejudice or a petition for reassignment shall be filed with the chief administrative law judge and shall not result in the continuance or delay of a hearing scheduled under section 176.341.

This section does not apply to prehearing or settlement conferences.

Sec. 72. Minnesota Statutes 1986, section 176.321, subdivision 2, is

amended to read:

Subd. 2. [CONTENTS.] The answer shall admit, deny, or affirmatively defend against the substantial averments of the petition, and shall state the contention of the adverse party with reference to the matter in dispute.

Each fact alleged by the petition or answer and not specifically denied by the answer or reply is deemed admitted, but the failure to deny such a fact does not preclude the ~~workers' compensation court of appeals, commissioner, or compensation judge~~ from requiring proof of the fact.

The answer shall include the names and addresses of all known witnesses; whether or not the employer intends to schedule an adverse examination and, if known, the date, time, and place of all adverse examinations; the desired location for a hearing; any request for a prehearing or settlement conference; the estimated time needed to present evidence at a hearing; and, if an affidavit of significant financial hardship and request for an expedited hearing are included with the petition, any objection the employer may have to that request. If the date, time, and place of all adverse examinations is unknown at the time the answer is filed, the employer must notify the commissioner in writing of the date, time, and place of all adverse examinations within 50 days of the filing of the claim petition.

Sec. 73. Minnesota Statutes 1986, section 176.321, subdivision 3, is amended to read:

Subd. 3. [EXTENSION OF TIME IN WHICH TO FILE ANSWER.] Upon showing of cause, the commissioner ~~of the department of labor and industry~~ may extend the time in which to file an answer or reply for not more than 30 additional days. The time to file an answer or reply may also be extended upon agreement of the petitioner, *provided that the agreement must be filed with the commissioner, and provided that the commissioner must be notified in writing by the employer no later than five days beyond the time required for the filing of the answer of the fact that an agreement has been reached, including the length of the extension. If an answer is not filed and there has been no extension by order of the commissioner or by agreement, the failure to file an answer shall be treated as a default* Any case received by the office that does not include an answer or written extension order or agreement shall be immediately set for a hearing at the first available date under section 176.331.

Sec. 74. [176.322] [SUMMARY JUDGMENT.]

If the parties agree to a stipulated set of facts and only legal issues remain, the commissioner or compensation judge may determine the matter without a hearing based upon the stipulated facts and the determination is appealable to the court of appeals pursuant to sections 176.421 and 176.442.

Sec. 75. Minnesota Statutes 1986, section 176.331, is amended to read:

176.331 [AWARD BY DEFAULT PROCEEDINGS WHEN ANSWER NOT FILED.]

Except in cases involving multiple employers or multiple insurers, if an adverse party fails to file and serve an answer and the petitioner presents proof of this fact, the commissioner or compensation judge may enter whatever award or order to which the petitioner is entitled on the basis of the facts alleged in the petition, but the compensation judge may require

~~proof of an alleged fact. If the commissioner requires proof or obtain an extension from the commissioner or the petitioner as required by section 176.321, subdivision 3, the commissioner shall request refer the matter to the chief administrative law judge to assign the matter to a compensation judge for an immediate hearing and prompt award or other order. The adverse party that failed to file an answer may appear at the hearing, present evidence and question witnesses, but shall not be granted a continuance for any reason.~~

If an adverse party who fails to serve and file an answer is neither insured for workers' compensation liability nor a licensed self-insured as required by section 176.181 and the special compensation fund is a party to the proceeding, the commissioner or compensation judge may enter an order awarding benefits to the petitioning party without a hearing if so requested by the special compensation fund.

~~Where in a default case the petition does not state facts sufficient to support an award, the compensation judge shall give the petitioner or the petitioner's attorney written notice of this deficiency. The petitioner may thereupon serve and file another petition as in the case of an original petition.~~

Sec. 76. Minnesota Statutes 1986, section 176.341, subdivision 3, is amended to read:

Subd. 3. [NOTICE MAILED TO EACH PARTY.] *Unless section 79 applies, at least 30 days prior to the date of hearing, the chief administrative law judge shall mail a notice of the time and place of hearing to each interested party. This subdivision does not apply to hearings which have been continued from an earlier date. In those cases, the notice shall be given in a manner deemed appropriate by the chief administrative law judge after considering the particular circumstances in each case.*

Sec. 77. Minnesota Statutes 1986, section 176.341, is amended by adding a subdivision to read:

Subd. 4. [CONTINUANCES.] *Only the chief administrative law judge or designee, on a showing of good cause, may grant a continuance of a hearing at the office. Except in cases of emergency or other good cause shown, any request for a continuance must be signed by both the party and the attorney seeking the continuance.*

A continuance of a hearing will be granted only upon a showing of good cause. Good cause is established when the underlying eventuality is unforeseen, is not due to lack of preparation, is relevant, is brought to the chief administrative law judge's attention in a timely manner and does not prejudice the adversary.

Continuances will not be granted for the reason that an attorney for one of the parties has scheduled a vacation for the date set for the hearing unless the attorney has, prior to the setting of the hearing date, notified the office of the unavailable dates.

Continuances which are requested during the course of a hearing are subject to the same standards but may be granted or denied by the compensation judge assigned to the hearing. Continuances of prehearing or settlement conferences at the department or at the office are subject to the same standards but may be granted or denied by a settlement judge, the calendar judge, compensation judge, or other presiding officer assigned

to the prehearing or settlement conference.

Sec. 78. Minnesota Statutes 1986, section 176.341, is amended by adding a subdivision to read:

Subd. 5. [EVIDENCE.] Absent a clear showing of surprise at the hearing or the unexpected unavailability of a crucial witness, all evidence must be submitted at the time of the hearing. Upon a showing of good cause, the compensation judge may grant an extension not to exceed 30 days following the hearing date.

Sec. 79. Minnesota Statutes 1986, section 176.341, is amended by adding a subdivision to read:

Subd. 6. [SIGNIFICANT FINANCIAL HARDSHIP; EXPEDITED HEARINGS.] An employee may file a request for an expedited hearing which must be granted upon a showing of significant financial hardship. In determining whether a significant financial hardship exists, consideration shall be given to whether the employee is presently employed, the employee's income from all sources, the nature and extent of the employee's expenses and debts, whether the employee is the sole support of any dependents, whether either foreclosure of homestead property or repossession of necessary personal property is imminent, and any other matters which have a direct bearing on the employee's ability to provide food, clothing, and shelter for the employee and any dependents.

A request for an expedited hearing must be accompanied by a sworn affidavit of the employee providing facts necessary to satisfy the criteria for a significant financial hardship. The request may be made at the time a claim petition is filed or any time thereafter. Unless the employer objects to the request in the answer to the claim petition or within 20 calendar days of the filing of a request made subsequent to the filing of the claim petition, the affidavit is a sufficient showing of significant financial hardship.

If a request for an expedited hearing has been served and filed, the commissioner or compensation judge shall issue an order granting or denying the request, provided that where the parties agree that significant financial hardship exists or no objection to the request is timely filed, the request is automatically granted and the compensation judge or commissioner need not issue an order. If it is denied, the matter will be returned to the regular calendar of cases and the request for an expedited hearing may be renewed at a settlement conference. If no objection has been timely filed or if the request is granted, the commissioner shall immediately refer the matter to the office to commence prehearing procedures.

The calendar judge shall issue a prehearing order and notice of the date, time, and place for a prehearing conference which shall be set for no later than 45 days following the filing of the affidavit of significant financial hardship. The prehearing order shall require the parties to serve and file prehearing statements no later than five working days prior to the date set for the prehearing conference. The prehearing statements shall include those items listed in the joint rules of the division and the office which the calendar judge deems appropriate.

Following any prehearing conference and absent an agreement or stipulation from the parties, the commissioner or compensation judge shall issue an order establishing deadlines for the parties to complete their preparation for hearing and, after consultation with the calendar judge, establishing the date, time, and place for a hearing.

Sec. 80. Minnesota Statutes 1986, section 176.351, subdivision 2a, is amended to read:

Subd. 2a. [SUBPOENAS NOT PERMITTED.] A member of the rehabilitation review panel or medical services board or an employee of the department who has conducted an administrative or settlement conference or hearing under section 176.102, 176.103, 176.135, 176.136, 176.242, or 176.243 section 27 or 60, shall not be subpoenaed to testify regarding the conference, hearing, or concerning a mediation session. A member of the rehabilitation review panel, medical services board, or an employee of the department may be required to answer written interrogatories limited to the following questions:

(a) Were all statutory and administrative procedural rules adhered to in reaching the decision?

(b) If the answer to question (a) is no, what deviations took place?

(c) Did the person making the decision consider all the information presented prior to rendering a decision?

(d) Did the person making the decision rely on information outside of the information presented at the conference or hearing in making the decision?

(e) If the answer to question (d) is yes, what other information was relied upon in making the decision?

In addition, for a hearing with a compensation judge and with the consent of the compensation judge, an employee of the department who conducted an administrative conference, hearing, or mediation session, may be requested to answer written interrogatories relating to statements made by a party at the prior proceeding. These interrogatories shall be limited to affirming or denying that specific statements were made by a party.

Sec. 81. Minnesota Statutes 1986, section 176.361, subdivision 2, is amended to read:

Subd. 2. [WRITTEN APPLICATION.] A person desiring to intervene in a workers' compensation case as a party, including but not limited to a health care provider who has rendered services to an employee or an insurer who has paid benefits under section 176.191, shall submit a timely written application to intervene to the compensation or settlement judge to whom the case has been assigned. If the case has not yet been assigned, the application shall be made to the calendar judge if the case has been certified to the office, or to the division if the case has not been certified to commissioner, the office, or to the mediation or rehabilitation and medical services section if the matter is pending in that section court of appeals, whichever is applicable.

(a) The application must be served on all parties either personally, by first class mail, or registered mail, return receipt requested. An application to intervene must be served and filed within 30 days after a person has received notice that a claim has been filed or a request for mediation made. An untimely application is subject to denial under subdivision 7.

(b) In any other situation, timeliness will be determined by the commissioner, compensation judge, or awarding authority in each case based on circumstances at the time of filing. The application must show how the applicant's legal rights, duties, or privileges may be determined or affected by the case; state the grounds and purposes for which intervention is sought;

and indicate the statutory right to intervene. The application must be accompanied by the following, if applicable, except that if the action is pending in the mediation or rehabilitation and medical services section, clause (6) is not required and the information listed in clauses (1) to (5) may be brought to the conference rather than attached to the application:

(1) an itemization of disability payments showing the period during which the payments were or are being made; the weekly or monthly rate of the payments; and the amount of reimbursement claimed;

(2) a summary of the medical or treatment payments, or rehabilitation services provided by the division of vocational rehabilitation, broken down by creditor, showing the total bill submitted, the period of treatment or rehabilitation covered by that bill, the amount of payment on that bill, and to whom the payment was made;

(3) copies of all medical or treatment bills on which some payment was made;

(4) copies of the work sheets or other information stating how the payments on medical or treatment bills were calculated;

(5) a copy of the relevant policy or contract provisions upon which the claim for reimbursement is based;

(6) a proposed order allowing intervention with sufficient copies to serve on all parties;

(7) the name and telephone number of the person representing the intervenor who has authority to reach a settlement of the issues in dispute;

(8) proof of service or copy of the registered mail receipt;

(9) at the option of the intervenor, a proposed stipulation which states that all of the payments for which reimbursement is claimed are related to the injury or condition in dispute in the case and that, if the petitioner is successful in proving the compensability of the claim, it is agreed that the sum be reimbursed to the intervenor; and

(10) if represented by an attorney, the name, address, telephone number, and Minnesota Supreme Court license number of the attorney.

Sec. 82. Minnesota Statutes 1986, section 176.361, subdivision 5, is amended to read:

Subd. 5. [ORDER.] If an objection to intervention remains following settlement or pretrial conferences, the ~~calendar~~ commissioner or compensation judge shall rule on the intervention and the order is binding on the compensation judge to whom the case is assigned for hearing.

Sec. 83. Minnesota Statutes 1986, section 176.361, subdivision 7, is amended to read:

Subd. 7. [EFFECTS OF NONCOMPLIANCE.] Failure to comply with this section shall not result in a denial of the claim for reimbursement unless the compensation judge, or commissioner, or settlement judge determines that the noncompliance has materially prejudiced the interests of the other parties.

Sec. 84. Minnesota Statutes 1986, section 176.371, is amended to read:

176.371 [AWARD OR DISALLOWANCE OF COMPENSATION.]

The compensation judge to whom a petition has been assigned for hearing, shall hear all competent, relevant evidence produced at the hearing. All questions of fact and law submitted to a compensation judge at the hearing shall be disposed of and the judge's decision shall be filed with the commissioner, *except where expedited procedures require a shorter time*, within 60 days after the submission, unless sickness or casualty prevents a timely filing, ~~or the time is extended by written consent of the parties~~, or the chief administrative law judge extends the time for good cause. The compensation judge's decision shall include a determination of all contested issues of fact and law and an award or disallowance of compensation or other order as the pleadings, evidence, this chapter and rule require. A compensation judge's decision shall include a memorandum only if necessary to delineate the reasons for the decision or to discuss the credibility of witnesses. A memorandum shall not contain a recitation of the evidence presented at the hearing but shall be limited to the compensation judge's basis for the decision.

No part of the salary of a compensation judge shall be paid unless the chief administrative law judge determines that all decisions of that judge have been issued within the time ~~limit~~ *limits* prescribed by this ~~section~~ *chapter*.

Sec. 85. Minnesota Statutes 1986, section 176.411, subdivision 1, is amended to read:

Subdivision 1. [CONDUCT OF HEARINGS AND INVESTIGATIONS.] Except as otherwise provided by this chapter, when a compensation judge makes an investigation or conducts a hearing, the compensation judge is bound neither by the common law or statutory rules of evidence nor by technical or formal rules of pleading or procedure. *Hearsay evidence which is reliable is admissible.* The investigation or hearing shall be conducted in a manner to ascertain the substantial rights of the parties.

Findings of fact shall be based upon ~~competent~~ *relevant and material* evidence only, *as presented by competent witnesses*, and shall comport with section 176.021.

Sec. 86. Minnesota Statutes 1986, section 176.421, is amended by adding a subdivision to read:

Subd. 3a. [CROSS-APPEAL.] *The respondent may cross-appeal within the 30-day period for taking an appeal, or within 15 days after service of the notice of appeal on that respondent, whichever is later.*

Sec. 87. Minnesota Statutes 1986, section 176.421, subdivision 4, is amended to read:

Subd. 4. [SERVICE AND FILING OF NOTICE; COST OF TRANSCRIPT.] Within the 30-day period for taking an appeal, the appellant shall:

- (1) serve a copy of the notice of appeal on each adverse party;
- (2) file the original notice, with proof of service by admission or affidavit, with the chief administrative law judge and file a copy with the commissioner;
- (3) in order to defray the cost of the preparation of the record of the proceedings appealed from, pay to the state treasurer, office of administrative hearings account the sum of \$25.

The first party to file an appeal is liable for the original cost of preparation of the transcript. Cross-appellants or any other persons requesting a copy of the transcript are liable for the cost of the copy. *The chief administrative law judge may require payment for transcription costs to be made in advance of the transcript preparation.* The cost of a transcript prepared by a nongovernmental source shall be paid directly to that source and shall not exceed the cost that the source would be able to charge the state for the same service.

Upon a showing of cause, the chief administrative law judge may direct that a transcript be prepared without expense to the party requesting its preparation, in which case the cost of the transcript shall be paid by the office of administrative hearings.

All fees received by the office of administrative hearings for the preparation of the record for submission to the workers' compensation court of appeals or for the cost of transcripts prepared by the office shall be deposited in the office of administrative hearings account in the state treasury and shall be used solely for the purpose of keeping the record of hearings conducted under this chapter and the preparation of transcripts of those hearings.

Sec. 88. Minnesota Statutes 1986, section 176.442, is amended to read:
176.442 [APPEALS FROM DECISIONS OF COMMISSIONER.]

Except for a commissioner's decision which may be heard de novo in another proceeding including but not limited to a decision from an administrative conference under section 176.102, 176.103, ~~176.242, or 176.243,~~ 27, 60, or a summary decision under section 176.305, any decision or determination of the commissioner affecting a right, privilege, benefit, or duty which is imposed or conferred under this chapter is subject to review by the workers' compensation court of appeals. A person aggrieved by the determination may appeal to the workers' compensation court of appeals by filing a notice of appeal with the commissioner in the same manner and within the same time as if the appeal were from an order or decision of a compensation judge to the workers' compensation court of appeals.

Sec. 89. Minnesota Statutes 1986, section 176.511, subdivision 1, is amended to read:

Subdivision 1. [PARTIES NOT AWARDED COSTS.] Except as provided otherwise by this chapter and specifically by this section, in appeals before the ~~workers' compensation court of appeals or hearings proceedings before the division or a compensation judge, the rehabilitation review panel, or the medical services review board~~ costs shall not be awarded to ~~either any~~ party.

Sec. 90. Minnesota Statutes 1986, section 176.511, subdivision 2, is amended to read:

Subd. 2. [DISBURSEMENTS, TAXATION.] ~~The commissioner or compensation judge, the commissioner on behalf of the rehabilitation review panel or the medical services review board or on appeals to appeal the workers' compensation court of appeals, the workers' compensation court of appeals may award the prevailing party reimbursement for actual and necessary disbursements. These disbursements shall be taxed upon five days written notice to adverse parties.~~

Sec. 91. Minnesota Statutes 1986, section 176.511, subdivision 3, is

amended to read:

Subd. 3. [ATTORNEY'S FEE, ALLOWANCE.] Where upon an appeal to the workers' compensation court of appeals, an award of compensation is affirmed, or modified and affirmed, or an order disallowing compensation is reversed, the workers' compensation court of appeals may include in its award as an incident to its review on appeal an amount to cover a reasonable attorney's fee, or it may allow the fee in a proceeding to tax disbursements.

If the employer or insurer files a notice of discontinuance of an employee's benefits and an administrative conference is held to resolve the dispute, but the employer or insurer fails to attend the administrative conference, the commissioner or compensation judge may order the employer or insurer to pay the employee's attorney fees as a cost under this section if the employee's benefits are continued.

Sec. 92. Minnesota Statutes 1986, section 176.521, is amended to read:
176.521 [SETTLEMENT OF CLAIMS.]

Subdivision 1. [VALIDITY.] An agreement between an employee or an employee's dependent and the employer or insurer to settle any claim, which is not upon appeal before the ~~workers' compensation~~ court of appeals, for compensation under this chapter is valid where it has been executed in writing and signed by the parties and intervenors in the matter, and, where one or more of the parties is not represented by an attorney, the ~~division commissioner~~ or a compensation judge has approved the settlement and made an award thereon. If the matter is upon appeal before the ~~workers' compensation~~ court of appeals or district court, the ~~workers' compensation~~ court of appeals or district court is the approving body.

Subd. 2. [APPROVAL.] Settlements shall be approved only if the terms conform with this chapter.

The ~~division commissioner~~, a compensation judge, the ~~workers' compensation~~ court of appeals, and the district court shall exercise discretion in approving or disapproving a proposed settlement.

The parties to the agreement of settlement have the burden of proving that the settlement is reasonable, fair, and in conformity with this chapter. A settlement agreement where both the employee or the employee's dependent and the employer or insurer and ~~intervenors in the matter~~ are represented by an attorney shall be conclusively presumed to be reasonable, fair, and in conformity with this chapter except when the settlement purports to be a full, final, and complete settlement of an employee's right to medical compensation under this chapter or rehabilitation under section 176.102. A settlement which purports to do so must be approved by the ~~division commissioner~~, a compensation judge, or ~~workers' compensation~~ court of appeals.

The conclusive presumption in this subdivision applies to a settlement agreement entered into on or after January 15, 1982, whether the injury to which the settlement applies occurred prior to or on or after January 15, 1982.

Subd. 2a. [SETTLEMENTS NOT SUBJECT TO APPROVAL.] When a settled case is not subject to approval, upon receipt of the stipulation for settlement, *the commissioner*, a compensation judge, ~~a settlement judge~~, or the ~~workers' compensation~~ court of appeals shall immediately sign the

award and file it with the commissioner. Payment pursuant to the award shall be made within 14 days after it is filed with the commissioner. The commissioner may correct mathematical or clerical errors at any time.

Subd. 3. [SETTING ASIDE AWARD UPON SETTLEMENT.] Notwithstanding the provisions of subdivision 1, 2, or 2a, or any provision in the agreement of settlement to the contrary, upon the filing of a petition by any party to the settlement, the ~~workers' compensation~~ court of appeals may set aside an award made upon a settlement, pursuant to this chapter. In appropriate cases, the ~~workers' compensation~~ court of appeals may refer the matter to the chief administrative law judge for assignment to a compensation judge for hearing.

Sec. 93. Minnesota Statutes 1986, section 176.541, subdivision 2, is amended to read:

Subd. 2. [DEFENSE OF CLAIM AGAINST STATE.] When the commissioner of the ~~department of labor and industry~~ *employee relations* believes that a claim against the state for compensation should be contested, the commissioner shall defend the state claim.

Sec. 94. Minnesota Statutes 1986, section 176.541, subdivision 3, is amended to read:

Subd. 3. [DUTIES OF ATTORNEY GENERAL.] At any stage in such a compensation proceeding, the attorney general may assume the duty of defending the state. When the commissioner of the ~~department of labor and industry~~ *employee relations* or a department of this state requests the attorney general to assume the defense, the attorney general shall do so.

Sec. 95. Minnesota Statutes 1986, section 176.541, subdivision 4, is amended to read:

Subd. 4. [MEDICAL EXAMINATION OF EMPLOYEE; WITNESSES; CONDUCT OF DEFENSE.] In conducting a defense against a claim for compensation, the commissioner of the department of ~~labor and industry~~ *employee relations* or the attorney general, as the case may be, may require that an employee submit to a medical examination, procure the attendance of expert and other witnesses at a hearing, and do any other act necessary to conduct a proper defense.

Sec. 96. Minnesota Statutes 1986, section 176.541, subdivision 6, is amended to read:

Subd. 6. [LEGAL AND CLERICAL HELP] The commissioner of the ~~department of labor and industry~~ *employee relations* may employ such legal and clerical help as authorized by the department of administration. The salaries of these persons shall be paid from the state compensation revolving fund, but shall be apportioned among the several departments of the state in relation to the amount of compensation paid to employees of any department as against the total amount of compensation paid to employees of all departments.

Sec. 97. Minnesota Statutes 1986, section 176.571, subdivision 1, is amended to read:

Subdivision 1. [PRELIMINARY INVESTIGATION.] When the head of a department has filed a report or the commissioner of the ~~department of labor and industry~~ *employee relations* has otherwise received information of the occurrence of an injury to a state employee for which liability to

pay compensation may exist, the commissioner of the department of labor and industry employee relations shall make a preliminary investigation to determine the question of probable liability.

In making this investigation, the commissioner of the department of labor and industry employee relations may require the assistance of the head of any department or any employee of the state. The commissioner of the department of labor and industry employee relations may require that all facts be furnished which appear in the records of any state department bearing on the issue.

Sec. 98. Minnesota Statutes 1986, section 176.571, subdivision 2, is amended to read:

Subd. 2. ~~[FINDINGS OF FACT, PROPOSED ORDER DETERMINATION BY DEPARTMENT.]~~ When the commissioner of the department of labor and industry employee relations has completed an investigation, the commissioner shall make findings of fact and shall enter an award or other order which the commissioner proposes to make relating to the liability of the state to pay compensation inform the claimant, the head of the employing department, and the commissioner of finance in writing of the action taken.

Sec. 99. Minnesota Statutes 1986, section 176.572, is amended to read:

176.572 [CONTRACT WITH INSURANCE CARRIERS.]

The commissioner of employee relations may contract with group health insurance carriers or health maintenance organizations to provide health care services and reimburse health care payments for injured state employees entitled to benefits under this chapter.

Sec. 100. Minnesota Statutes 1986, section 176.581, is amended to read:

176.581 ~~[FINDINGS AND FINAL ORDER PAYMENT TO STATE EMPLOYEES.]~~

~~Subdivision 1. [FILING OF CERTIFIED COPIES.] The commissioner of the department of labor and industry shall file a certified copy of the findings and final order with the attorney general and the commissioner of finance.~~

Subd. 2. ~~[PAYMENT OF COMPENSATION.]~~ Upon a warrant prepared by the commissioner of the department of labor and industry employee relations and approved by the commissioner of finance, and in accordance with the terms of the order awarding compensation, the state treasurer shall pay compensation to the employee or the employee's dependent. These payments shall be made from money appropriated for this purpose.

Subd. 3. ~~[RECEIPTS FILED.]~~ The person to whom compensation is paid shall file with the commissioner of the department of labor and industry all current interim and final receipts for such payment as is required of employers.

Sec. 101. Minnesota Statutes 1986, section 176.591, subdivision 3, is amended to read:

Subd. 3. [COMPENSATION PAYMENTS UPON WARRANTS.] The state treasurer shall make compensation payments from the fund only as authorized by this chapter upon warrants of the commissioner of the department of labor and industry employee relations.

Sec. 102. Minnesota Statutes 1986, section 176.603, is amended to read:
176.603 [COST OF ADMINISTERING CHAPTER, PAYMENT.]

The annual cost to the commissioner of the department of ~~labor and industry~~ *employee relations* of administering this chapter in relation to state employees and the necessary expenses which the department of ~~labor and industry~~ *employee relations* or the attorney general incurs in investigating, administering, and defending a claim against the state for compensation shall be paid from the state compensation revolving fund.

Sec. 103. Minnesota Statutes 1986, section 176.83, subdivision 5, is amended to read:

Subd. 5. [EXCESSIVE MEDICAL SERVICES.] In consultation with the medical services review board or the rehabilitation review panel, rules establishing standards and procedures for determining whether a provider of health care services and rehabilitation services, including a provider of medical, chiropractic, podiatric, surgical, hospital or other services, is performing procedures or providing services at a level or with a frequency that is excessive, based upon accepted medical standards for quality health care and accepted rehabilitation standards.

If it is determined by the payer that the level, frequency or cost of a procedure or service of a provider is excessive according to the standards established by the rules, the provider shall not be paid for the excessive procedure, service, or cost by an insurer, self-insurer, or group self-insurer, and the provider shall not be reimbursed or attempt to collect reimbursement for the excessive procedure, service, or cost from any other source, including the employee, another insurer, the special compensation fund, or any government program unless the commissioner, ~~medical services review board, or workers' compensation court of appeals or compensation judge~~ determines at a hearing *or administrative conference* that the level, frequency, or cost was not excessive in which case the insurer, self-insurer, or group self-insurer shall make the payment deemed reasonable.

A health or rehabilitation provider who is determined by the ~~commissioner~~ *rehabilitation review board, after hearing*, to be consistently performing procedures or providing services at an excessive level or cost may be prohibited from receiving any further reimbursement for procedures or services provided under this chapter. A prohibition imposed on a provider under this subdivision may be grounds for revocation or suspension of the provider's license or certificate of registration to provide health care or rehabilitation service in Minnesota by the appropriate licensing or certifying body.

The rules adopted under this subdivision shall require insurers, self-insurers, and group self-insurers to report medical and other data necessary to implement the procedures required by this clause.

Sec. 104. Minnesota Statutes 1986, section 176.83, subdivision 7, is amended to read:

Subd. 7. [MISCELLANEOUS RULES.] Rules necessary for implementing and administering the provisions of sections 176.131, 176.132, 176.134, sections ~~176.242 60 and 176.243 61~~; sections 176.251, 176.66 to 176.669, and rules regarding proper allocation of compensation under section 176.111. Under the rules adopted under section 176.111 a party may petition for a hearing before a compensation judge to determine the

proper allocation. In this case the compensation judge may order a different allocation than prescribed by rule.

Sec. 105. Minnesota Statutes 1986, section 176.83, subdivision 11, is amended to read:

Subd. 11. **[SUITABLE GAINFUL EMPLOYMENT INDEPENDENT CONTRACTORS.]** Rules establishing criteria to be used by the division, compensation judge, and workers' compensation court of appeals to determine "**suitable gainful employment**" and "**independent contractor**."

Sec. 106. Minnesota Statutes 1986, section 176.84, is amended to read:
176.84 **[SPECIFICITY OF NOTICE OR STATEMENT.]**

Subdivision 1. [SPECIFICITY REQUIRED.] All Notices or statements required by this chapter including, but not limited to, notices or statements pursuant to sections 176.102; 176.221; 176.241; 176.242; and 176.243 of discontinuance and denials of liability shall be sufficiently specific to convey clearly, without further inquiry, the basis upon which the party issuing the notice or statement is acting. If the commissioner or compensation judge determines that a notice or statement is not sufficiently specific to meet the standard under this section, the notice or statement may be rejected as unacceptable and the party issuing it shall be informed of this. The rejected notice or statement may be amended to meet the requirement of this section or a new one may be filed.

Subd. 2. [EFFECTIVE DATE.] This section shall not be effective until the commissioner adopts rules which specify what is required to be contained in the notice of discontinuance and the denial of liability.

Sec. 107. Minnesota Statutes 1986, section 176B.02, is amended to read:
176B.02 **[PEACE OFFICERS BENEFIT FUND.]**

There is hereby created in the state treasury an account to be known as peace officers benefit fund. Funds in the peace officers benefit fund shall consist of moneys appropriated to that fund. The administrator of the fund is the commissioner of ~~labor and industry~~ *employee relations*, who shall follow the procedures specified in section 176.541, subdivisions 2, 3, and 4.

Sec. 108. Minnesota Statutes 1986, section 176B.05, is amended to read:
176B.05 **[ATTORNEY'S FEES FOR CLAIMING BENEFITS.]**

No fee for legal services which is claimed for the work of an attorney relating to a claim made pursuant to the provisions of sections 176B.01 to 176B.05 is binding unless the amount of the fee charged is determined and approved in writing by *the commissioner, compensation judge, or the workers' compensation court of appeals*.

Sec. 109. **[REPEALER.]**

Minnesota Statutes 1986, sections 176.012; 176.101, subdivision 3v; 176.102, subdivision 6a; 176.103, subdivision 4; 176.136, subdivision 4; 176.195, subdivisions 4, 5, and 6; 176.241; 176.242; 176.2421; 176.243; 176.244; 176.271, subdivision 2; 176.501; 176.571, subdivisions 3, 4, 5, 6, and 7; and 176.602, are repealed."

Delete the title and insert:

"A bill for an act relating to workers compensation; providing a general administrative reform; providing for certain proceedings to be expedited; providing penalties; amending Minnesota Statutes 1986, sections 14.48; 175.007, subdivision 1; 175.101, subdivision 2; 176.011, subdivisions 2, 6, 7a, 9, 17, and by adding subdivisions; 176.021, subdivision 1a; 176.041, subdivision 1, and by adding a subdivision; 176.081, subdivision 2; 176.102, subdivisions 2, 3, 3a, 4, 6, 8, 10, and 13; 176.103, subdivisions 2 and 3; 176.111, subdivision 17; 176.133; 176.135, subdivisions 1, 1a, 2, 3, and by adding subdivisions; 176.136, subdivision 2; 176.1361; 176.139; 176.155, subdivisions 1, 2, 3, and 5; 176.179; 176.185, by adding a subdivision; 176.191, subdivisions 1 and 2; 176.195, subdivision 3, and by adding subdivisions; 176.221, subdivisions 1, 3, and 7; 176.225, subdivisions 1 and 4; 176.231, subdivisions 2, 10, and by adding a subdivision; 176.271, subdivision 1; 176.275; 176.291; 176.301, subdivision 1; 176.305, subdivisions 1, 2, and by adding subdivisions; 176.306, subdivision 1, and by adding a subdivision; 176.312; 176.321, subdivisions 2 and 3; 176.331; 176.341, subdivision 3, and by adding subdivisions; 176.351, subdivision 2a; 176.361, subdivisions 2, 5, and 7; 176.371; 176.411, subdivision 1; 176.421, subdivision 4, and by adding a subdivision; 176.442; 176.511, subdivisions 1, 2, and 3; 176.521; 176.541, subdivisions 2, 3, 4, and 6; 176.571, subdivisions 1 and 2; 176.572; 176.581; 176.591, subdivision 3; 176.603; 176.83, subdivisions 5, 7, and 11; 176.84; 176B.02; and 176B.05; proposing coding for new law in Minnesota Statutes, chapter 176; repealing Minnesota Statutes 1986, sections 176.012; 176.101, subdivision 3v; 176.102, subdivision 6a; 176.103, subdivision 4; 176.136, subdivision 4; 176.195, subdivisions 4, 5, and 6; 176.241; 176.242; 176.2421; 176.243; 176.244; 176.271, subdivision 2; 176.501; 176.571, subdivisions 3, 4, 5, 6, and 7; and 176.602."

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

Mr. Schmitz from the Committee on Local and Urban Government, to which was referred

H.F. No. 489: A bill for an act relating to local government; authorizing annexation proceedings for certain land between the city of Nashwauk and the town of Nashwauk.

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

Mr. Schmitz from the Committee on Local and Urban Government, to which was referred

H.F. No. 289: A bill for an act relating to the city of St. Paul; setting the maximum amounts and other conditions for the issuance of capital improvement bonds; amending Laws 1971, chapter 773, section 1, subdivision 2, as amended; and section 2, as amended; repealing Laws 1963, chapter 881, as amended.

Reports the same back with the recommendation that the bill do pass and be re-referred to the Committee on Taxes and Tax Laws. Report adopted.

Mr. Schmitz from the Committee on Local and Urban Government, to which was referred

H.F. No. 357: A bill for an act relating to the city of Saint Paul; permitting the city to adopt certain regulations for smoke detection devices; amending Minnesota Statutes 1986, section 299F.362, by adding a subdivision.

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

Mr. Schmitz from the Committee on Local and Urban Government, to which was referred

H.F. No. 345: A bill for an act relating to local government; allowing certain cities to appropriate money for advertising; amending Minnesota Statutes 1986, section 465.56, subdivision 1.

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

Page 1, after line 6, insert:

"Section 1. Minnesota Statutes 1986, section 44.04, subdivision 4, is amended to read:

Subd. 4. [MEETINGS.] The board shall hold regular and special meetings as provided by its rules. All meetings and hearings shall be open to the public. Two members of the board shall constitute a quorum. Members shall be paid all necessary expenses. The board shall select a secretary to serve at the pleasure of the board. The secretary may be a member of the board or an employee of the municipality. The council may authorize the payment of compensation for the secretary's services, ~~not exceeding \$100 a year and may authorize the payment of compensation for the members of the board not exceeding \$150 per year in an amount to be determined by the council.~~

Renumber the section in sequence

Amend the title as follows:

Page 1, line 2, after the semicolon, insert "providing for additional compensation for employees and members of municipal civil service boards;"

Page 1, line 4, delete "section" and insert "sections 44.04, subdivision 4; and"

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

Mr. Schmitz from the Committee on Local and Urban Government, to which was referred

H.F. No. 502: A bill for an act relating to counties; allowing counties to charge fees for services; providing conditions for emergency contracts; amending Minnesota Statutes 1986, sections 375.21, subdivision 1; and 375.48, subdivision 1; proposing coding for new law in Minnesota Statutes, chapter 373; repealing Minnesota Statutes 1986, section 375A.07.

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

Page 3, after line 6, insert:

"Sec. 4. [BELTRAMI COUNTY; DOG AND CAT CONTROL; POWERS.]

Notwithstanding Minnesota Statutes, sections 347.09 to 347.14, the Beltrami county board may adopt an ordinance for the control of dogs and cats within the county. It may provide that:

(a) The county may declare certain activities of a dog or cat off the property of its owner or the person who has it in possession to be a nuisance.

(b) The county may establish a procedure to quarantine and control dogs or cats involved in bite cases including a procedure for the humane destruction of a dog or cat which has a history of biting. An administrative hearing allowing due process to the owner or person in possession of the dog or cat must occur before the destruction.

(c) The sheriff, department of public health, or the Beltrami county humane society may impound a dog or cat that is abandoned or creates a nuisance and provide for its humane destruction if it is not reclaimed after five days' notice to its owner or the person who had it in possession.

(d) The county may provide penalties for a person who abandons a dog or cat or permits a dog or cat to create a nuisance.

(e) The county may provide that the owner or person in possession of a dog or cat shall be responsible for all the costs of confinement, including costs for veterinary services and rabies immunization, as a result of an impoundment that occurs under the ordinance."

Renumber the section in sequence

Amend the title as follows:

Page 1, line 4, after the semicolon, insert "authorizing the Beltrami county board to adopt an ordinance regulating dogs and cats within the county;"

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

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

S.F. No. 781: A bill for an act relating to education; providing quality assessment activities for post-secondary institutions; establishing a task force; developing pilot projects; appropriating money; amending Minnesota Statutes 1986, section 135A.06; proposing coding for new law in Minnesota Statutes, chapter 135A.

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 1986, section 135A.06, is amended to read:

135A.06 [SYSTEM PLANS AND MISSIONS.]

Subdivision 1. [SUBMISSION OF PLANS.] It is the intent of the legislature that the planning efforts of the public post-secondary education systems be summarized and reported to the legislature. It is the further intent that the system missions be differentiated from one another to best

serve the needs of the citizens of Minnesota. In order to accomplish these goals, the University of Minnesota board of regents, the state university board, the state board for community colleges, and the state board of vocational technical education shall each submit to the governor and the legislature on December 1 of each even-numbered year a planning report for its system. The planning report shall contain the mission of the system and short- and long-range plans for programs, staff, and facilities. The report shall specify the mission and plans for two, five, and ten years. The assumptions used in developing the plans shall be included. The report shall also include plans for and progress toward achieving mission differentiation while maintaining the state's overall post-secondary objectives. *The report shall include plans for and progress in developing quality assessment activities to improve student learning and to enhance the effectiveness of academic programs.*

Subd. 2. [MISSION.] Each system shall review its mission as it relates to instruction, research, and public service. The systems in cooperation with the higher education coordinating board shall jointly review their missions and develop strategies to achieve clearer mission differentiation and an overall intersystem plan that ensures achieving the state's overall post-secondary objectives.

Subd. 2a. [QUALITY.] *Each system shall, in cooperation with the higher education coordinating board, develop measures and prepare plans to assess the quality of its institutions and programs.*

Subd. 3. [SYSTEM PLANS.] Each system shall develop a program plan for instruction, research, and public service. Each system shall consult with the higher education coordinating board and with the other systems throughout the planning process. The higher education coordinating board shall coordinate intersystem efforts in the development of the program plans to achieve intersystem cooperation and differentiation. *The board shall coordinate intersystem efforts to develop quality assessment standards and methods.*

Each planning report shall consider at least the following elements:

(a) A statement of program priorities for undergraduate, graduate, and professional education. Program plans shall also include data about program cost and average class size within each institution.

(b) A review of plans for adjusting the number of facilities, staff, and programs to projected level of demand. Plans for adjustments shall consider campus and program mergers, campus and program closings, new governance structures, the relationship between fixed costs and projected enrollment changes, and other methods including consolidation of institutions, services, and programs that serve the same geographic area under different governing boards.

(c) Enrollment projections for two, five, and ten years. If a system uses projections which are different from the most recent available projections produced by the higher education coordinating board, the system shall compare its projections with enrollment projections prepared by the higher education coordinating board, and the system shall identify the method and assumptions used to prepare its projections.

(d) Estimated financial costs and savings of alternative plans for adjusting facilities, staff, and programs to declining enrollments and fiscal resources.

(e) Opportunities for providing services cooperatively with other public and private institutions in the same geographic area.

(f) Differentiating and coordinating missions to reduce or eliminate duplication of services and offerings.

(g) *Methods for assessing the quality of programs and institutions and using assessment results to improve student learning.*

Subd. 4. [CAPITAL REQUESTS.] A capital budget request submitted by a system must specifically relate a proposed capital project to the plans required under this section.

Subd. 5. [HECB REVIEW AND COMMENT.] The higher education coordinating board shall review and comment on the reports prepared by the systems. In order to provide sufficient time for this review, systems shall submit the reports to the coordinating board on September 1 prior to the December 1 submission to the governor and legislature. Before the higher education coordinating board forwards its review and comment to the legislature, each system shall be given the opportunity by the higher education coordinating board to respond to the higher education coordinating board review. In order to provide sufficient time for the systems to respond, the HECB shall provide copies of its review and comment to the systems by October 15 and the systems shall submit any responses to the higher education coordinating board by November 15, prior to the December 1 submission to the governor and the legislature. The system responses shall accompany the higher education coordinating board review and comment when it is submitted to the governor and the legislature. As part of its review and comment, the higher education coordinating board shall present information on the costs, enrollment, and participation in public post-secondary institutions and, on the progress the systems and the board are making toward an integrated intersystem planning effort, and on efforts to assess the quality of institutions.

Subd. 6. [PRIVATE COLLEGES AND PROPRIETARY SCHOOLS.] *The members of the private college council and the Minnesota association of private proprietary schools shall perform the duties relating to quality assessment required of public post-secondary systems by this section.*

Sec. 2. [TASK FORCE ON QUALITY ASSESSMENT.]

Subdivision 1. [PURPOSE.] *A task force on quality in post-secondary education is established. The task force shall select appropriate strategies for enhancing quality and assuring ongoing assessment of quality.*

Subd. 2. [MEMBERSHIP.] *The members of the task force shall be appointed by a committee composed of: the executive director of the higher education coordinating board, the president of the University of Minnesota, the chancellor of the state universities, the chancellor of the community colleges, and the state director of vocational technical education. The committee shall choose from a list of nominees provided by each group represented on the task force. Members of the task force shall be selected to represent all geographical regions of the state. The membership of the task force shall consist of the following:*

- (1) *one representative of the higher education coordinating board;*
- (2) *two representatives of each of the public post-secondary systems;*
- (3) *two representatives of the private college council;*

(4) two representatives of the Minnesota association of private post-secondary schools;

(5) one faculty member from each of the public post-secondary systems;

(6) one faculty member from the private college council;

(7) one faculty member from the Minnesota association of private post-secondary schools;

(8) six post-secondary students, one from each of the student organizations enumerated in section 136A.02, subdivision 7;

(9) one representative of the state board of education;

(10) three secondary school teachers nominated by the commissioner of education; and

(11) two members from the general public nominated by the governor.

The executive director of the board or a designee shall convene the task force.

Subd. 3. [DUTIES.] The task force shall conduct an inventory of assessment methods currently used by the post-secondary systems and institutions. The task force shall analyze the use of all assessment methods included in the inventory.

The task force shall specify appropriate goals of post-secondary education for students, institutions, systems, and the state. These goals should include the general learned abilities that distinguish people who have completed an undergraduate program, regardless of field of specialization. Appropriate goals shall be specified for cognitive learning, and may be specified for socialization, citizenship, and, if applicable, occupational preparation.

The task force shall assist each public post-secondary system and private institutions in determining methods to assess the quality of individual programs and ways for institutions to use assessment results.

Subd. 4. [STAFF] The board shall provide staff assistance and support services for the task force, to accomplish the following:

(1) establishment of work plan, agendas, and meetings;

(2) provision of appropriate research and background materials; and

(3) exchange of information about assessment tools and mechanisms among institutions, through conferences and dissemination of documents produced.

Subd. 5. [REPORT.] The task force shall provide a report on its work to the higher education coordinating board and the higher education advisory council, and the education and higher education committees, and the education subcommittees of the finance and appropriation committees of the legislature by September 1, 1988.

Sec. 3. [APPROPRIATIONS.]

\$_____ is appropriated in fiscal year 1988 and \$_____ in fiscal year 1989 from the general fund to the higher education coordinating board for the task force established in section 2. Of these sums, \$_____ for fiscal year 1988 and \$_____ for fiscal year 1989 are for each of the following: private college council and Minnesota association of private

proprietary schools.

\$_____ for fiscal year 1988 and \$_____ for fiscal year 1989 is appropriated from the general fund for each of the following: University of Minnesota, state university board, state board for community colleges, and state board of vocational technical education."

Amend the title as follows:

Page 1, line 4, delete everything after the first semicolon

Page 1, line 6, delete everything after "135A.06" and insert a period

Page 1, delete line 7

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

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

S.F. No. 1119: A bill for an act relating to education; providing for capital expenditure funding by school districts; amending Minnesota Statutes 1986, sections 124.245, by adding a subdivision; and 275.125, by adding a subdivision.

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

Delete everything after the enacting clause and insert:

"Section 1. [ROBBINSDALE REPAIR AND BETTERMENT LEVY AND BONDING.]

Subdivision 1. [FACILITY REPAIR AND BETTERMENT.] The school board of independent school district No. 281, Robbinsdale, by resolution adopted by a majority vote after notice and hearing, may adopt a capital facility repair and betterment program for its existing district-owned facilities. The program must set forth the facilities to be improved, a schedule of work not exceeding five years from the adoption or amendment of the program, the estimated cost of the improvements to be made, and the proposed methods of financing the program. The program is subject to commissioner review under section 121.15. The program must be a part of the capital improvement program of the district according to the procedures in section 473.863. The program must be reviewed by the district annually before July 1 after notice and hearing. After the district's review the program may be amended to include the ensuing five-year period.

Subd. 2. [SPECIAL CAPITAL EXPENDITURE LEVY.] After the adoption of a program, the school board, by resolution adopted by majority vote, may annually levy an amount not more than two percent of the insured replacement value of district-owned facilities as certified to the commissioner by the board, but the aggregate amount levied must not exceed the actual or estimated cost, whichever is less, of the improvements identified in the program. The proceeds of the levies must be paid into a special account in the capital expenditure fund of the district and used solely for capital expenditures identified in the program, including principal and interest on obligations issued under subdivision 6. The levy authorized by this subdivision may be made in addition to all other authorized levies.

Subd. 3. [TERMINATION OF LEVY.] If a contract for one or more

improvements identified in the program has not been entered into within one year after the date of adoption of or amendment to the program, the authority to levy under subdivision 2 shall end. Any money in the special account must then be transferred to and irrevocably pledged to the debt service fund of the district to be used solely to reduce levies for bonded indebtedness of the district, or if there is no debt service fund, to the capital expenditure fund of the district. When the program ends, any balance in the special account must be used as provided in this subdivision.

Subd. 4. [PUBLIC HEARING.] Adoption of a program must be preceded by a public hearing. The hearing must be held after two weekly publications of a notice of the hearing in a newspaper of general circulation in the district. The second publication of the notice must be at least five days before the hearing.

Subd. 5. [REFERENDUM.] The authorization for the levy under subdivision 2 may be revoked or reduced as provided in this subdivision. A referendum on the question of revoking or reducing the authorized amount must be called on the written petition of two percent of the residents of the school district as determined by the most recent census. A petition to revoke or reduce the levy must be received by September 1 of the year in which the levy is proposed to be certified, and, if required, the referendum must be held by October 10 of that year. The ballot must state the number of mills required to raise the authorized amount. The ballot question must read substantially as follows:

"Shall the authority to make an extra capital expenditure levy in (year) granted to independent school district No. _____ in (this act) be (revoked/ reduced from \$_____ to \$_____)?"

In other respects the referendum must be conducted as other elections are conducted under sections 123.32 and 124A.03.

Subd. 6. [ISSUE BONDS.] The district, by resolution adopted by a two-thirds vote of the board, may issue and sell general obligation bonds within net debt limits to finance all or a part of the cost of the improvements identified in the program. The obligations must be issued and sold as provided in chapter 475, except that voter approval for issuance is not required.

Sec. 2. [EFFECTIVE DATE.]

Section 1 is effective the day after final enactment."

Delete the title and insert:

"A bill for an act relating to education; authorizing independent school district No. 281, Robbinsdale, to issue bonds and levy for repair and betterment of school buildings; providing for a reverse referendum."

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

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

S.F. No. 1044: A bill for an act relating to education; providing for teacher seniority and severance pay in districts entering into agreements for secondary education and tuitioning agreements; amending Minnesota Statutes 1986, sections 122.535, subdivision 2; 122.541, subdivision 1; and 123.39, by adding a subdivision.

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 1986, section 122.535, subdivision 2, is amended to read:

Subd. 2. [AGREEMENT.] The school board may enter into one or more agreements providing for instruction of its secondary pupils in one or more districts. The agreement shall be effective on July 1 and shall be for a specified or indefinite number of years. The agreement shall set forth the obligations of transportation, the tuition to be paid to the providing district, and all additional charges and fees to be paid to the providing district. The amount of tuition shall not be subject to the provisions of section 124.18, subdivision 2. ~~The agreement may provide for negotiation of a plan for the assignment or employment in a providing district as an exchange teacher according to section 125.13, or placement on unrequested leave of absence of teachers whose positions are discontinued as a result of the agreement.~~ *The school board and the exclusive representative of the teachers of all of the districts entering into an agreement may negotiate a plan for assignment or employment of teachers or for placing on unrequested leave of absence those teachers whose positions are discontinued as a result of the agreement. If a plan is not negotiated before May 1, teachers who are employed in these districts and who have acquired continuing contract rights must be placed on unrequested leave of absence as provided in section 125.12, subdivision 6b, in the fields in which they are licensed and have taught within the previous five years, in the inverse order in which they were employed by the districts according to a combined seniority list of teachers.* "Teacher" has the meaning given it in section 125.12, subdivision 1.

Sec. 2. Minnesota Statutes 1986, section 122.541, subdivision 1, is amended to read:

Subdivision 1. The boards of two or more school districts may, after consultation with the department of education, enter into an agreement providing for the discontinuance by a district of any of grades kindergarten through 12 or portions of those grades, *including any subject*, and the instruction in a cooperating district of the pupils in the discontinued grades or portions of grades, *including any subject*; provided, the board of a district discontinuing a grade pursuant to the agreement shall continue to maintain a school enrolling pupils in at least three grades. Before making final an agreement permitted by this subdivision, the boards shall provide a copy of this agreement to the commissioner of education.

Sec. 3. Minnesota Statutes 1986, section 123.39, subdivision 4, is amended to read:

Subd. 4. The board may provide for the instruction of any resident pupil in another district when inadequate room, distance to school, unfavorable road conditions, or other facts or conditions make attendance in the pupil's own district unreasonably difficult or impractical, in which case such district shall pay to the district so attended the tuition agreed upon or charged, pursuant to section 124.18, subdivision 2, and may provide transportation; provided, that such pupil shall continue to be a pupil of the district of residence for the payment of apportionment and other state aids. *The school boards and the exclusive representatives of the teachers may negotiate a plan for assignment or employment of teachers or for placing on unre-*

quested leave of absence those teachers whose positions are discontinued as a result of the instructional arrangements provided according to this subdivision. If a plan is not negotiated before May 1 and it is necessary to place continuing contract teachers on unrequested leave of absence, the teachers must be placed on unrequested leave of absence in fields in which they are licensed and have taught within the previous five years, in the inverse order in which they were employed, according to a combined seniority list of all teachers from both districts."

Delete the title and insert:

"A bill for an act relating to education; providing for combined seniority list of certain teachers in districts entering into agreements for secondary education and tuitioning agreements unless otherwise negotiated; amending Minnesota Statutes 1986, sections 122.535, subdivision 2; 122.541, subdivision 1; and 123.39, subdivision 4."

And when so amended the bill do pass. Mr. Moe, D.M. questioned the reference thereon and, under Rule 35, the bill was referred to the Committee on Rules and Administration.

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

S.F. No. 1057: A bill for an act relating to education; establishing a center at the University of Minnesota; appropriating money.

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

Delete everything after the enacting clause and insert:

"Section 1. [STUDY.]

The University of Minnesota shall study the feasibility of establishing a center for alternative methods to animal testing. The overall purpose of a center would be to encourage the development of alternative methods for toxicity testing and other experimentation on animals.

Sec. 2. [POTENTIAL ACTIVITIES.]

In its study, the University shall consider the following possible functions for the center:

(1) facilitating acquisition of federal funding for research in alternative methods;

(2) coordinating and facilitating development of private support for research on alternative methods at the university;

(3) serving as a liaison with the public and the press concerning animal research and alternative methods;

(4) coordinating a seminar program and otherwise fostering and enhancing interest in alternative methods at the university; and

(5) evaluating proposals for seed funds for promising research in alternative methods and allocating the funds if they become available.

Sec. 3. [REPORT.]

The university shall report its findings and recommendations to the education committee of the senate, higher education committee of the house of representatives and the appropriations and finance committees of the

legislature by January 1, 1988."

Delete the title and insert:

"A bill for an act relating to education; requiring the University of Minnesota to study alternative methods for animal testing."

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

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

S.F. No. 899: A bill for an act relating to education; establishing the Fond du Lac Higher Education Center; appropriating money.

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

Delete everything after the enacting clause and insert:

"Section 1. [FOND DU LAC HIGHER EDUCATION CENTER.]

Subdivision 1. [PILOT PROJECT TO SERVE AREA.] The Fond du Lac higher education center is established as a pilot project. The project must include day and evening classes and extension and workshop offerings in the Fond du Lac service area. The center must be in operation by fall of 1987.

Subd. 2. [GOVERNANCE AND ADMINISTRATION.] The Fond du Lac higher education center must be governed by the state board for community colleges and administered by Arrowhead Community College.

Sec. 2. Laws 1986, First Special Session chapter 1, article 10, section 1, subdivision 9, is amended to read:

Subd. 9. Governor

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The governor, after consulting with the Fond du Lac reservation and the higher education coordinating board, shall appoint a task force of 13 members to study the feasibility of establishing a coordinate campus of Arrowhead Community College on the Fond du Lac Indian reservation that would be open and available to all. The task force shall report to the legislature on the results of its study by February 1, 1987. The task force shall provide copies of its report to the state board for community colleges and the higher education coordinating board. Those boards shall respond to the legislature on the report of the task force by March 1, 1987. The task force (1) is subject to Minnesota Statutes, section 15.059, subdivision 6 shall continue to operate until June 30, 1989, to oversee the establishment of the Fond du Lac higher education center, (2) may accept money from nonstate sources to do its work, (3) shall cooperate with and invite the participation before it of the federal government, including the Bureau of Indian Affairs, and (4) shall report on, among other things, the availability of federal tribal community college funding.

Sec. 3. [APPROPRIATION.]

\$800,000 in fiscal year 1988 is appropriated from the general fund to the state board for community colleges to establish and operate the Fond du Lac higher education center. The appropriation is available until June 30, 1989."

Delete the title and insert:

"A bill for an act relating to education; establishing the Fond du Lac higher education center; continuing the Fond du Lac higher education task force; appropriating money; amending Laws 1986, First Special Session chapter 1, article 10, section 1, subdivision 9."

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

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

S.F. No. 1269: A bill for an act relating to education; appropriating money for Worthington community college to join certain telecommunications networks.

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

Page 1, line 14, after the comma, insert "*all money paid according to this section shall be returned by the state board for community colleges and*"

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

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

S.F. No. 827: A bill for an act relating to public improvements; appropriating money for a Red Lake tribal archives, library, and interpretive center.

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

Page 1, line 15, after "*project*" insert "*of \$2,155,000*" and delete "*by other sources*"

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

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

S.F. No. 363: A bill for an act relating to education; increasing the capital expenditure revenue allowance; decreasing the capital expenditure levy; amending Minnesota Statutes 1986, sections 124.245, subdivision 1; and 275.125, subdivision 11a.

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

Delete everything after the enacting clause and insert:

"Section 1. [SPECIAL ASSESSMENT LEVY FOR SARTELL.]

Independent school district No. 748, Sartell, may levy for excess capital expenditures an amount equal to the special assessment levied in 1987 by the city of Sartell against the property on which the high school is located. Each year the levy shall be an amount not less than \$29,000. When the cumulative amount levied according to this section equals the amount of the special assessment plus interest, the levy shall be discontinued.

Sec. 2. [EFFECTIVE DATE.]

Section 1 is effective the day following compliance with Minnesota Statutes, section 645.021, subdivision 3, by the school board of independent school district No. 748, Sartell."

Delete the title and insert:

"A bill for an act relating to education; authorizing independent school district No. 748, Sartell, to levy for excess capital expenditures."

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

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

S.F. No. 1307: A bill for an act relating to education; adopting a common course numbering system for higher education; assigning the planning for implementation of a common course numbering system for higher education to a task force assisted by the staff of the higher education coordinating board; appropriating money; proposing coding for new law in Minnesota Statutes, chapter 135A.

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

Page 1, delete section 1

Page 2, line 17, delete "bill" and insert "section"

Renumber the sections in sequence

Amend the title as follows:

Page 1, line 2, delete everything after the semicolon

Page 1, line 3, delete everything before "assigning"

Page 1, line 7, delete "; proposing" and insert a period

Page 1, delete line 8

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

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

S.F. No. 1001: A bill for an act relating to school districts; creating a debt service anticipation levy; amending Minnesota Statutes 1986, sections 121.15, subdivision 3; 275.125, by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapter 124.

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

Page 1, line 25, after "account" insert "in the building construction fund"

Page 1, line 26, delete ". The money in the" and insert "that would otherwise be paid by using"

Page 2, line 1, delete "account must be used to reduce the amount of" and insert "proceeds of" and delete "that would"

Page 2, line 2, delete "otherwise be"

Page 2, line 6, delete "anticipated debt service" and insert "the construction costs approved by the referendum in this subdivision. The district shall comply with section 121.15 prior to initiation of the referendum"

Page 2, line 13, after the comma, insert "which shall be the maximum amount of the increased levy in dollars, must"

Page 2, line 14, after "and" insert "must"

Page 2, line 33, delete "necessary" and insert "approved by referendum according to section 2, subdivision 2,"

Page 2, line 34, after the period, insert "If the construction project for which the levy is made is not built or is otherwise abandoned, the levy proceeds shall be transferred to the debt redemption fund."

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

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

S.F. No. 1252: A bill for an act relating to education; modifying post-secondary scholarships, grants-in-aid, part-time student grants-in-aid, and work-study grants; amending Minnesota Statutes 1986, sections 136A.101, by adding a subdivision; 136A.121, subdivisions 4, 5, and 10; 136A.132, subdivisions 3, 6, and 7; and 136A.233, subdivision 1.

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

Page 1, line 14, delete "under" and insert "in" and delete "and" and insert "as amended, and applicable regulations, except that the age requirement shall be 22 instead of 24 years."

Page 1, delete line 15

Page 4, line 2, after the period, insert "However, an institution shall not receive less than it would have received under the allocation formula used prior to fiscal year 1988 unless appropriations attributable to this section are reduced."

Page 4, line 23, after the period, insert "The institution shall not receive less than it would have received under the allocation formula used prior to fiscal year 1988 unless appropriations attributable to this section are reduced. No more than one-half of any increase in appropriations, attributable to this section, above the level before fiscal year 1988 shall be allocated on the basis of identified student employment needs at eligible institutions."

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

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

S.F. No. 860: A bill for an act relating to school districts; authorizing a capital expenditure levy for surplus school buildings used for community purposes; amending Minnesota Statutes 1986, section 275.125, by adding a subdivision.

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

Page 1, line 12, delete "\$_____" and insert "\$5"

Page 1, after line 17, insert:

"Sec. 2. Minnesota Statutes 1986, section 275.125, is amended by adding a subdivision to read:

Subd. 11e. [REFERENDUM.] The authorization for the levy in section 1 may be revoked or reduced as provided in this subdivision. A referendum on the question of revoking or reducing the authorized amount must be called on the written petition of two percent of the residents of the school district as determined by the most recent census. A petition to revoke or reduce the levy authorized by section 1 must be received by September 1 of the year in which the levy will be certified, and, if required, the referendum must be held by October 10 of that year. The ballot must state the number of mills required to raise the authorized amount. The ballot question must read substantially as follows:

"Shall the authority to make an extra capital levy in (year) granted to independent school district No. _____ in (this act) be (revoked/reduced from \$_____ to \$_____)?"

In other respects the referendum must be conducted as other elections are conducted under sections 123.32 and 124A.03."

Amend the title as follows:

Page 1, line 4, after the semicolon, insert "providing for a reverse referendum;"

Page 1, line 5, delete "a subdivision" and insert "subdivisions"

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

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

S.F. No. 1182: A bill for an act relating to independent school district No. 625; authorizing the issuance of bonds for the purpose of deferred capital improvements; authorizing a tax levy for debt service; authorizing an excess levy for deferred capital maintenance; providing for local approval.

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

Page 2, after line 6, insert:

"Subd. 2. [ADDITIONAL BONDING AUTHORITY.] In addition to bonds authorized by other law, independent school district No. 625 may issue \$400,000 in bonds in 1987. Except for the dollar limits, the bonds are subject to subdivision 1.

The bonds must not be issued until the school district has conveyed to

the city of Saint Paul, by recordable deed, all of the interest of independent school district No. 625 in property legally described as King's Park View, Block 2. The property is otherwise known as the Edgcumbe school site and is bounded by Hamline Avenue, Pinehurst Avenue, Syndicate Avenue, and Ford Parkway."

Page 2, line 7, delete "2" and insert "3"

Page 2, line 8, delete "*subdivision 1*" and insert "*subdivisions 1 and 2*"

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

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

S.F. No. 759: A bill for an act relating to education; clarifying the authority of contracting school districts to select an individual to provide services as a superintendent; amending Minnesota Statutes 1986, section 123.34, subdivision 9.

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

Page 1, line 21, delete "*absolute*"

Page 1, line 22, delete "*right*" and insert "*authority*" and delete "*the individual to perform the services*" and insert "*one of the individuals employed to serve as superintendent in one of the contracting districts*"

Page 1, line 25, delete "*, or based on a present*"

Page 2, line 1, delete everything before the period

Page 2, line 4, delete "*at any time during the*"

Page 2, line 5, delete "*year to facilitate this cooperation*"

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

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

S.F. No. 749: A bill for an act relating to independent school district No. 271, Bloomington; authorizing excess capital outlay levies in 1987 and 1988 to replace deteriorating roofs.

Reports the same back with the recommendation that the bill do pass and be re-referred to the Committee on Taxes and Tax Laws. Report adopted.

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

S.F. No. 476: A bill for an act relating to agriculture; providing funds to be added by private contributions to establish an endowed chair at the University of Minnesota for a sustainable agriculture program; appropriating money.

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

Page 1, line 14, after the period, insert "*Sustainable agriculture represents the best aspects of traditional and modern agriculture by utilizing*

a fundamental understanding of nature, as well as the latest scientific advances to create integrated, self-reliant, resource conserving practices that enhance the enrichment of the environment and provide short- and long-term productive agriculture."

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

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

S.F. No. 870: A bill for an act relating to education; increasing the special operating debt levy in independent school district No. 712, Mountain Iron-Buhl; amending Laws 1984, chapter 463, article 6, section 15, subdivision 1.

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

Delete everything after the enacting clause and insert:

"Section 1. Laws 1984, chapter 463, article 6, section 15, subdivision 1, is amended to read:

Subdivision 1. [AUTHORIZATION.] In 1985 and each year thereafter, the newly created district formed by the consolidation of Independent School District No. 694, Buhl, and Independent School District No. 703, Mountain Iron, may make an additional levy to eliminate a deficit in the net unappropriated ~~operating funds~~ *balance in the general fund* of the newly created district, determined as of June 30, 1985, and certified and adjusted by the commissioner. This levy each year may be an amount not to exceed ~~1.5~~ *4.0* mills times the adjusted assessed valuation of the newly created district for the preceding year as determined by the equalization aid review committee. When the cumulative amount of the levies made pursuant to this subdivision equals the total amount of the certified deficit of the newly created district, the levy shall be discontinued.

Sec. 2. Laws 1984, chapter 463, article 6, section 15, is amended by adding a subdivision to read:

Subd. 1a. [BOARD RESOLUTION.] Each year before the district levies according to this section, the board shall adopt a resolution, by a majority vote of the entire board, approving the amount to be levied."

Amend the title as follows:

Page 1, line 5, before the period, insert ", and by adding a subdivision"

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

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

S.F. No. 187: A bill for an act relating to liens; personal property; establishing a lien on personal property held in self-service storage facilities; providing for the enforcement of these liens; regulating rental agreements and advertising; proposing coding for new law in Minnesota Statutes, chapter 514.

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

Page 1, lines 11 and 15, delete "7" and insert "10"

Page 2, line 6, delete "*a person who is*" and insert "*one or more persons, jointly or severally, who are*"

Page 2, line 7, after "*facility*" insert a comma

Page 2, line 8, after "*facility*" insert a comma and delete "*receives*" and insert "*receive*"

Page 2, line 17, delete "*self-storage*" and insert "*self-service storage*"

Page 2, after line 21, insert:

"*Subd. 7. [DEFAULT.] 'Default' means failure of the occupant to pay the rent and other charges becoming due under the rental agreement within 15 days of the rents and other charges becoming due under the terms of the rental agreement.*"

Page 2, line 29, delete "*or*" and insert "*and*"

Page 2, line 32, delete "*reasonable*" and insert "*reasonably*"

Page 2, lines 35 and 36, delete "*provided for in this section*"

Page 3, lines 2 and 3, delete "*personal property is brought to*" and insert "*occupant is in default unless the occupant obtains a court order to recover possession of personal property in*"

Page 3, line 3, after "*self-service*" insert "*storage*"

Page 3, line 4, after "*from*" insert "*the*"

Page 3, after line 6, insert:

"*Subd. 3. [SECURITY DEPOSITS.] No lien is created under subdivision 1 if the owner has possession of a security deposit sufficient to cover rents and other charges at the time of an alleged default.*"

Subd. 4. [DENIAL OF ACCESS.] Upon default the owner shall mail notice of default to the occupant at the last known address of the occupant. The notice of default must state that the occupant will be denied access to the occupant's property until the owner's claim has been satisfied. The notice of default must state that any dispute regarding denial of access can be raised by the occupant in court. Notice of default must further state the rights of the occupant contained in subdivision 5.

Subd. 5. [ACCESS TO CERTAIN ITEMS.] The occupant may remove from the self-service storage facility personal papers, health aids, personal clothing of the occupant and the occupant's dependents, and personal property that is necessary for the livelihood of the occupant and that has a market value of less than \$50 if demand is made to any of the persons listed in section 7, subdivision 1. The occupant shall present a list of the items, and may remove them during the facility's ordinary business hours prior to the sale authorized by section 4. If the owner unjustifiably denies the occupant access for the purpose of removing the items specified in this subdivision, the occupant is entitled to an order allowing access to the storage unit for removal of the specified items. The self-service storage facility is liable to the occupant for the costs, disbursements and attorney fees expended by the occupant to obtain this order."

Page 3, line 8, delete "7" and insert "10"

Page 3, line 9, delete "*may*" and insert "*must*"

Page 3, line 18, after "include" insert "a disclosure of"

Page 3, line 20, delete "and"

Page 3, line 21, after the period, insert "A rental agreement may not exempt an owner from liability for damages to an occupant's personal property caused by the owner's negligence. The rental agreement must request the occupant to insert an alternate mailing address."

Page 3, after line 21, insert:

"Sec. 7. [514.976] [DISCLOSURE AND ACTIONS.]

Subdivision 1. [DISCLOSURE.] There shall be disclosed to the occupant either in the rental agreement or otherwise in writing prior to commencement of the occupancy the name and address of:

(1) the person authorized to manage the premises; and

(2) an owner of the premises or an agent authorized by the owner to accept service of process and receive and give receipt for notices and demands.

Subd. 2. [POSTING OF NOTICE.] A printed or typewritten notice containing the information that must be disclosed under subdivision 1 must be placed in a conspicuous place on the premises.

Subd. 3. [ALTERNATE SERVICE.] If subdivisions 1 and 2 have not been complied with and an occupant desiring to make service of process upon or give a notice or demand to the owner does not know the name and address of the owner or the owner's agent, as that term is used in subdivision 1, then a caretaker or manager of the premises or an individual to whom rental payments for the premises are made is deemed to be an agent authorized to accept service of process and receive and give receipt for notices and demands on behalf of the owner.

Subd. 4. [ACTION.] Except as otherwise provided in this subdivision, an owner may not maintain an action to recover rent or possession of the premises unless the information required by this section has been disclosed to the occupant, or unless the information is known by or has been disclosed to the occupant at least 30 days prior to the initiation of the action. Failure by the owner to post a notice required by subdivision 2 does not prevent any action to recover rent or possession of the premises.

Subd. 5. [APPLICATION.] This section applies to any successor owner, caretaker, manager, or individual to whom rental payments for the storage space are made.

Sec. 8. [514.977] [DEFAULT.]

If an occupant defaults in the payment of rent or otherwise breaches the rental agreement, the owner may commence an unlawful detainer action under section 566.01.

Sec. 9. [514.978] [WAIVER OR MODIFICATION PROHIBITED.]

The owner and occupant may not waive or modify the provisions of sections 1 to 10."

Page 3, line 22, delete "[514.976]" and insert "[514.979]"

Page 3, line 25, delete "which" and insert "that"

Page 3, line 31, delete "7" and insert "10"

Page 3, line 32, delete "*existing as of that date or*" and after "*into*" insert "*on or*"

Renumber the sections in sequence

And when so amended the bill do pass. Mr. Novak questioned the reference thereon and, under Rule 35, the bill was referred to the Committee on Rules and Administration.

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

S.F. No. 1381: A bill for an act relating to courts; authorizing the court to require parties in a contested civil action to enter mediation; proposing coding for new law in Minnesota Statutes, chapter 484.

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

Page 1, line 17, delete "*sections 518B.01,*" and insert "*chapter 518, except as provided in section 518.619, or chapter 518A, 518B, or 518C, or sections 144.651, 144.652, 626.556, or*" and delete "*, or*"

Page 1, line 18, delete "*144.651 and 144.652*"

Page 2, line 5, before "*The*" insert "*Subject to the provisions of chapter 563,*"

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

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

S.F. No. 1345: A bill for an act relating to the judiciary; public defenders; requiring the state board of public defense to adopt standards governing district public defender offices; authorizing the state board of public defense to fix the salary of the state public defenders; requiring the state public defender to provide training for state and district public defenders; providing that compensation of district public defenders may not exceed compensation of county attorneys; allowing representation of indigents by public defender before formal appointment; providing for state funding of district public defenders by weighted caseload; appropriating money; amending Minnesota Statutes 1986, sections 611.215, subdivisions 1 and 2; 611.216, subdivisions 1, 2, and 3; 611.23; 611.24; 611.25; 611.26, subdivisions 1, 2, 3, 4, and 6; and 611.27, subdivisions 1, 2, and 3; proposing coding for new law in Minnesota Statutes, chapter 611; repealing Minnesota Statutes 1986, sections 611.22; and 611.26, subdivisions 5 and 8.

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

Page 1, line 25, delete "*611.215, 611.216, 611.22, 611.23, 611.24, 611.25,*"

Page 1, line 26, delete the comma

Page 2, line 3, delete "*, appeals court, or supreme court*"

Page 2, line 21, strike "*shall*"

Page 2, line 22, delete "*appoint*" and insert "*appoints*"

Page 2, line 23, delete "*shall serve*" and insert "*serves*"

Page 2, lines 24, 27, and 32, delete "*shall*" and insert "*must*"

Page 3, line 5, after "*the*" insert "*eligibility for appointment,*"

Page 3, line 6, delete the second "*of*" and insert "*for*"

Page 3, line 9, delete "*or*" and insert "*and*"

Page 3, lines 32 and 33, strike "Within its geographic area of responsibility each" and insert "A"

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

Page 3, lines 35 and 36, delete the new language

Page 4, line 6, after "*money*" insert "*or in-kind contribution*"

Page 4, line 7, delete "*or in-kind contribution,*"

Page 5, line 8, delete "*control*"

Page 5, line 9, delete "*and*"

Page 5, line 27, after "*defender*" insert "*, subject to the supervision of the state board of public defense,*"

Page 5, line 29, delete "*as authorized by the*"

Page 5, line 30, delete "*state board of public defense*"

Page 6, line 20, delete the first comma

Page 8, line 9, after "*district*" insert "*public*"

Page 8, line 26, after "*Assistant*" insert "*district*"

Page 8, line 28, after "*assistant*" insert "*district*"

Page 8, line 35, delete "*, or a person appealing from a*"

Page 8, delete line 36

Page 9, line 1, delete "*the time for appeal has expired,*"

Page 9, line 2, delete "*, the court of appeals, the supreme court, or the*"

Page 9, line 3, delete everything before the period

Page 9, line 7, delete "*individuals*" and insert "*a person*"

Page 9, line 12, after "*total*" insert "*compensation and*" and after "*expenses*" insert "*, including office equipment and supplies,*"

Page 9, line 30, strike "*which*" and insert "*that*"

Page 11, line 16, delete "*shall*" and insert "*must*"

Page 11, delete section 18

Renumber the sections in sequence

Amend the title as follows:

Page 1, line 18, delete "*1, 2, and 3*" and insert "*1 and 2*"

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 referred

H.F. No. 269 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.
269	102				

Pursuant to Rule 49, the Committee on Rules and Administration recommends that H.F. No. 269 be amended as follows:

Delete all the language after the enacting clause of H.F. No. 269 and insert the language after the enacting clause of S.F. No. 102; further, delete the title of H.F. No. 269 and insert the title of S.F. No. 102.

And when so amended H.F. No. 269 will be identical to S.F. No. 102, and further recommends that H.F. No. 269 be given its second reading and substituted for S.F. No. 102, 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. 755 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.
755	904				

Pursuant to Rule 49, the Committee on Rules and Administration recommends that H.F. No. 755 be amended as follows:

Delete all the language after the enacting clause of H.F. No. 755 and insert the language after the enacting clause of S.F. No. 904, the first engrossment; further, delete the title of H.F. No. 755 and insert the title of S.F. No. 904, the first engrossment.

And when so amended H.F. No. 755 will be identical to S.F. No. 904, and further recommends that H.F. No. 755 be given its second reading and substituted for S.F. No. 904, 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. 1049 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.
1049	1074				

Pursuant to Rule 49, the Committee on Rules and Administration recommends that H.F. No. 1049 be amended as follows:

Delete all the language after the enacting clause of H.F. No. 1049 and insert the language after the enacting clause of S.F. No. 1074; further, delete the title of H.F. No. 1049 and insert the title of S.F. No. 1074.

And when so amended H.F. No. 1049 will be identical to S.F. No. 1074, and further recommends that H.F. No. 1049 be given its second reading and substituted for S.F. No. 1074, 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. Purfeerst from the Committee on Transportation, to which was referred

S.F. No. 988: A bill for an act relating to motor carriers; exempting drivers of intrastate charter carriers from having in possession a medical examiner certificate if the driver has a school bus endorsement; amending Minnesota Statutes 1986, section 221.031, by adding a subdivision.

Reports the same back with the recommendation that the bill do pass and be placed on the Consent Calendar. Report adopted.

Mr. Purfeerst from the Committee on Transportation, to which was referred

H.F. No. 567: A resolution memorializing the President and Congress to give states more authority to regulate interstate pipelines and to improve federal regulation of pipelines.

Reports the same back with the recommendation that the resolution do pass and be placed on the Consent Calendar. Report adopted.

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

S.F. No. 1174: A bill for an act relating to the office of the attorney general; removing the numerical limit on the number of assistant attorneys general; authorizing the attorney general to delegate contract review duties; amending Minnesota Statutes 1986, section 8.02, subdivision 1; proposing coding for new law in Minnesota Statutes, chapter 8.

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

Page 1, line 15, delete the new language and insert "25"

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

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

S.F. No. 587: A bill for an act relating to state government; adding certain emergency personnel to the list of people eligible for benefits from the peace officers benefit fund; amending Minnesota Statutes 1986, section 176B.01, subdivision 2.

Reports the same back with the recommendation that the bill do pass and be re-referred to the Committee on Finance. Report adopted.

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

S.F. No. 1358: A bill for an act relating to employment and training; establishing a committee; authorizing pilot projects in service delivery; appropriating money; proposing coding for new law in Minnesota Statutes, chapter 267.

Reports the same back with the recommendation that the bill do pass and be re-referred to the Committee on Finance. Report adopted.

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

S.F. No. 1197: A bill for an act relating to state government; creating the council on Martin Luther King, Jr. holidays and providing for the council's powers and duties; proposing coding for new law as Minnesota Statutes, chapter 44B.

Reports the same back with the recommendation that the bill do pass and be placed on the Consent Calendar. Report adopted.

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

S.F. No. 1016: A bill for an act relating to agriculture; transferring authority of the commissioner of energy and economic development relating to governor's council on rural development to the commissioner of agriculture; authorizing loan and grant programs; providing for new members; appropriating money; amending Minnesota Statutes 1986, sections 116J.951; 116J.955; and 116J.961, subdivisions 1, 2, 3, 5, 8, and 9; proposing coding for new law in Minnesota Statutes, chapter 17; repealing Minnesota Statutes 1986, section 116J.961, subdivision 10.

Reports the same back with the recommendation that the bill do pass and be re-referred to the Committee on Finance. Report adopted.

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

S.F. No. 1165: A bill for an act relating to state government; prohibiting certain mandated leaves of absence for state employees; amending Minnesota Statutes 1986, section 43A.32, subdivision 2, and by adding a subdivision.

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

Page 1, line 11, strike "officer or" and insert "state"

Page 1, line 12, strike "in the" and delete "executive branch"

Page 1, delete lines 13 to 15 and insert:

"(a) Take leave of absence upon assuming an elected federal ~~or state public office, including elected state legislative office or an elected state office other than state legislative office or, if elected to state legislative office, during times that the legislature is in session;~~"

Page 1, lines 16 and 17, reinstate the stricken language

Page 1, line 20, reinstate the stricken "(c)" and delete "(b)"

Page 2, lines 4 and 7, delete "(a)" and insert "(b)"

Page 2, line 11, delete "officer or" and insert "state"

Page 2, line 12, delete "in the executive branch,"

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

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

S.F. No. 98: A bill for an act relating to retirement; providing lump sum payments to certain retired or disabled public employees or their surviving spouses; appropriating money.

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

Delete everything after the enacting clause and insert:

"Section 1. [POSTRETIREMENT ADJUSTMENT; LUMP SUM PAYMENTS.]

Subdivision 1. [COVERED RETIREMENT FUNDS.] The following retirement funds shall pay the postretirement adjustment provided for in this section:

- (1) *public employees retirement fund;*
- (2) *public employees police and fire fund;*
- (3) *teachers retirement fund;*
- (4) *state patrol retirement fund;*
- (5) *state employees retirement fund of the Minnesota state retirement system; and*
- (6) *Minneapolis employees retirement fund.*

Subd. 2. [ENTITLEMENT.] A person receiving a retirement annuity, disability benefit, or surviving spouse's annuity or benefit from a retirement fund named in subdivision 1 is entitled to receive the postretirement adjustment provided for in this section if the annuity or benefit the person is receiving is:

- (1) *an annuity or benefit from the fund named in subdivision 1, clause (4), computed under the laws in effect before June 1, 1973;*
- (2) *an annuity or benefit from the funds named in subdivision 1, clause*

(1), (2), (3), or (5), computed under the laws in effect before July 1, 1973;

(3) an annuity from the fund named in subdivision 1, clause (6), computed under the laws in effect before March 5, 1974;

(4) a "\$2 bill and annuity" annuity from the fund named in subdivision 1, clause (6); or

(5) an annuity or benefit from the fund named in subdivision 1, clause (5), computed under the metropolitan transit commission-transit operating division employees retirement fund document in effect before January 1, 1978.

Subd. 3. [AMOUNT OF ADJUSTMENT.] Each retirement fund named in subdivision 1 shall pay the postretirement adjustments provided for in this section to each person eligible for an annuity or benefit on November 30, 1987, or November 30, 1988, and entitled to an adjustment under subdivision 2. An adjustment for an individual recipient must be a lump sum payment in an amount equal to \$25 in 1987 and \$25 in 1988 for each full year of allowable service credited to the recipient by the fund. Adjustments are payable on December 1, 1987, to recipients eligible for an annuity or benefit on November 30, 1987, and on December 1, 1988, to recipients eligible for an annuity or benefit on November 30, 1988. Nothing in this section authorizes a fund to pay an adjustment to an estate. Notwithstanding Minnesota Statutes, section 356.18, a fund shall pay the adjustments provided for in this section without being requested to do so unless an intended recipient files a written notice with the fund requesting that the adjustment not be paid.

Subd. 4. [TERMINAL AUDIT.] Each retirement fund named in subdivision 1, as soon as practical after payment of the December 1, 1988, postretirement adjustment, shall calculate the amount of any appropriation apportioned to it in excess of the amount required to pay the adjustments, report its calculation in writing to the commissioner of finance, and return any excess amount to the general fund. The commissioner of finance shall verify the calculation reported by each fund.

Sec. 2. [APPROPRIATION.]

\$13,620,682 is appropriated from the general fund to the retirement funds named in section 1, subdivision 1, to pay the postretirement adjustments provided for in section 1. The appropriation is apportioned as follows:

	Fiscal Year 1988	Fiscal Year 1989
Public employees retirement fund	\$2,277,600	\$2,140,950
Public employees police and fire fund	96,600	91,775
Teachers retirement fund	1,915,275	1,803,225
State patrol retirement fund	82,500	77,500
State employees retirement fund	1,600,000	1,537,500
Minneapolis employees retirement fund	1,024,650	973,107

Sec. 3. [EFFECTIVE DATE.]

Sections 1 and 2 are effective July 1, 1987."

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

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

S.F. No. 834: A bill for an act relating to human services; establishing the office of assistant commissioner of mental health; establishing a state advisory council on mental health; creating a mental health division in the department of human services; proposing coding for new law in Minnesota Statutes, chapter 245.

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

Page 1, delete lines 11 to 22 and insert:

"Subdivision 1. [MENTAL HEALTH DIVISION.] The mental health division of the department of human services is under the supervision of an assistant commissioner of mental health appointed by the commissioner. At the direction of the commissioner, the division shall coordinate the administration and enforcement of laws relating to mental health that are administered and enforced by the commissioner. The commissioner, working with the assistant commissioner of mental health, shall oversee and coordinate services to persons with mental illness in both community programs and regional treatment centers throughout the state."

Page 2, line 10, delete everything after "as"

Page 2, line 11, delete everything before the semicolon and insert "directed by the legislature"

Page 3, delete lines 15 to 36 and insert:

"Subdivision 1. [MEMBERS.] (a) The state advisory council on mental health consists of the assistant commissioner of mental health, a representative of the department of human services responsible for the medical assistance program, designated by the commissioner, and 23 members appointed by the governor in accordance with paragraph (b) and with federal requirements. Terms, compensation, and removal of members and filling of membership vacancies are governed by section 15.059, except that members may not receive a per diem. The council does not expire as provided in section 15.059.

(b) The members appointed by the governor must include:

(1) one member from each of the four core mental health professional disciplines, namely psychiatry, psychology, social work, and nursing;

(2) providers of mental health services;

(3) consumers of mental health services;

(4) family members of persons with mental illnesses;

(5) social service agency directors;

(6) county commissioners; and

(7) other members reflecting a broad range of community interests."

Page 4, delete lines 1 to 13

Page 4, line 23, after the semicolon, insert "and"

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

Mr. Solon from the Committee on Commerce, to which was referred

S.F. No. 1206: A bill for an act relating to insurance; correcting certain errors; removing ambiguities; expanding certain insurers' investment authority; authorizing the commissioner to adopt investment rules; providing for miscellaneous changes and clarification; amending Minnesota Statutes 1986, sections 60A.11, subdivisions 10, 11, 13, 14, 15, 17, 18, 19, 21, 23, 24, 26, and by adding a subdivision.

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 1986, section 60A.11, subdivision 10, is amended to read:

Subd. 10. [DEFINITIONS.] The following terms have the meaning assigned in this subdivision for purposes of this section and section 60A.111:

(a) "Admitted assets," for purposes of computing percentage limitations on particular types of investments, means the assets as shown by the company's annual statement, required by section 60A.13, as of the December 31 immediately preceding the date the company acquires the investment;

(b) "Clearing corporation" means The Depository Trust Company or any other clearing agency registered with the federal securities and exchange commission pursuant to the Federal Securities Exchange Act of 1934, section 17A, Euro-clear Clearance System Limited and CEDEL S.A., and, with the approval of the commissioner, any other clearing corporation as defined in section 336.8-102;

(c) "Control" has the meaning assigned to that term in, and must be determined in accordance with, section 60D.01, subdivision 4;

(d) "Custodian bank" means a bank or trust company or a branch of a bank or trust company that is acting as custodian and is supervised and examined by state or federal authority having supervision over the bank or trust company or with respect to a company's foreign investments only by the regulatory authority having supervision over banks or trust companies in the jurisdiction in which the bank, trust company, or branch is located, and specifically includes Euro-clear Clearance System Limited and CEDEL S.A., acting as custodians;

(e) "Issuer" means the corporation, business trust, governmental unit, partnership, association, individual or other entity which issues or on behalf of which is issued any form of obligation;

(f) "Member bank" means a national bank, state bank or trust company which is a member of the Federal Reserve System;

(g) "National securities exchange" means an exchange registered under section 6 of the Securities Exchange Act of 1934 or an exchange regulated under the laws of the Dominion of Canada;

(h) "Obligations" include bonds, notes, debentures, transportation equipment certificates, repurchase agreements, bank certificates of deposit, time deposits, bankers' acceptances, and other obligations for the payment of money not in default as to payments of principal and interest on the date of investment, whether constituting general obligations of the issuer or payable only out of certain revenues or certain funds pledged or otherwise

dedicated for payment. Leases are considered obligations if the lease is assigned for the benefit of the company and is nonterminable by the lessee or lessees thereunder upon foreclosure of any lien upon the leased property, and rental payments are sufficient to amortize the investment over the primary lease term;

(i) "Qualified assets" means the sum of (1) all investments qualified in accordance with this section other than investments in affiliates and subsidiaries, (2) investments in obligations of affiliates as defined in section 60D.01, subdivision 2 secured by real or personal property sufficient to qualify the investment under subdivision 19 or 23, (3) qualified investments in subsidiaries, as defined in section 60D.01, subdivision 9, on a consolidated basis with the insurance company without allowance for goodwill or other intangible value, and (4) cash on hand and on deposit, agent's balances or uncollected premiums not due more than 90 days, assets held pursuant to section 60A.12, subdivision 2, investment income due and accrued, funds due or on deposit or recoverable on loss payments under contracts of reinsurance entered into pursuant to section 60A.09, premium bills and notes receivable, federal income taxes recoverable, and equities and deposits in pools and associations;

(j) "Qualified net earnings" means that the net earnings of the issuer after elimination of extraordinary nonrecurring items of income and expense and before income taxes and fixed charges over the five immediately preceding completed fiscal years, or its period of existence if less than five years, has averaged not less than 1-1/4 times its average annual fixed charges applicable to the period;

(k) "Required liabilities" means the sum of (1) total liabilities as required to be reported in the company's most recent annual report to the commissioner of commerce of this state, (2) for companies operating under the stock plan, the minimum paid-up capital and surplus required to be maintained pursuant to section 60A.07, subdivision 5a, (3) for companies operating under the mutual or reciprocal plan, the minimum amount of surplus required to be maintained pursuant to section 60A.07, subdivision 5b, and (4) the amount, if any, by which the company's loss and loss adjustment expense reserves exceed 350 percent of its surplus as it pertains to policyholders as of the same date. *The commissioner may waive the requirement in clause (4) unless the company's written premiums exceed 300 percent of its surplus as it pertains to policyholders as of the same date.* In addition to the required amounts pursuant to clauses (1) to (4), the commissioner may require that the amount of any apparent reserve deficiency that may be revealed by one to five year loss and loss adjustment expense development analysis for the five years reported in the company's most recent annual statement to the commissioner be added to required liabilities; and

(l) "Unrestricted surplus" means the amount by which qualified assets exceed 110 percent of required liabilities.

Sec. 2. Minnesota Statutes 1986, section 60A.11, subdivision 26, is amended to read:

Subd. 26. [RULES.] (a) The commissioner may ~~promulgate~~ *adopt* appropriate rules to carry out the purpose and provisions of this section.

(b) *A company may make qualified investments in any additional securities or property of any kind with the written order of the commissioner.*

This approval is at the discretion of the commissioner.

(c) Nothing authorized in this subdivision negates or reduces the investment authority granted in subdivisions 1 to 25.

Sec. 3. [EFFECTIVE DATE.]

Sections 1 and 2 are effective the day following final enactment."

Delete the title and insert:

"A bill for an act relating to insurance; regulating investments of domestic companies; defining terms; providing additional investment authority; amending Minnesota Statutes 1986, section 60A.11, subdivisions 10 and 26."

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

Mr. Solon from the Committee on Commerce, to which was referred

S.F. No. 1428: A bill for an act relating to the attorney general; creating a consumer protection account; providing for its administration; amending Minnesota Statutes 1986, section 8.31, subdivisions 2b, 3, and by adding subdivisions.

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

Page 2, delete lines 4 to 13 and insert:

"Subd. 2c. [CONSUMER EDUCATION ACCOUNT.] If a court of competent jurisdiction finds that a sum recovered under this section for the benefit of injured persons cannot reasonably be distributed to the victims, because the victims cannot readily be located or identified, or because the cost of distributing the money would outweigh the benefit to the victims, then the court may order that the money be paid into a consumer education account. All sums recovered must be deposited into the state treasury and credited to the consumer education account. All money in the consumer education account is appropriated to the attorney general for the following purposes:

(1) to prepare and distribute educational materials to inform the public regarding consumer protection laws and consumer rights;

(2) to underwrite educational seminars and other forms of educational projects for the benefit of consumers and businesses; and

(3) to contract for or conduct educational or research projects in the field of consumer protection, to further the purposes of the laws referred to in subdivision 1."

Page 2, line 21, strike "and" and insert a comma

Page 2, line 23, before the period, insert "as provided in section 4"

Page 2, line 34, delete "except money may be" and insert ", but sums recovered and deposited pursuant to section 2 must be credited to a consumer education account as provided in section 2"

Page 2, delete line 35

Page 2, line 36, delete the new language

Page 3, line 9, delete "*large classes of*" and delete "*, and to order administrator's fees to*" and insert "*. Upon the order of a court having jurisdiction over the matter, reasonable fees and expenses may be paid to the administrator out of any sums recovered under this section or administered by the administrator.*"

Page 3, delete lines 10 and 11.

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

Mr. Solon from the Committee on Commerce, to which was referred

S.F. No. 1372: A bill for an act relating to commerce; clarifying unregulated sales of eyeglasses; amending Minnesota Statutes 1986, section 148.56, subdivision 3.

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

Page 1, line 18, strike "or fishing"

Page 1, line 20, strike "without" and insert "*provided that there is no*"

Page 1, line 21, strike "if" and insert "*and the seller makes*" and strike "is"

Page 1, line 22, strike "made"

Page 1, line 23, after the period, insert "*The seller shall prominently display a sign on the counter or rack or other display device where the spectacles are offered for sale that reads as follows: 'If you have experienced a vision loss, the selection of these glasses should not take the place of an eye exam.'*"

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

Mr. Purfeerst from the Committee on Transportation, to which was referred

S.F. No. 1280: A bill for an act relating to public safety; increasing taxable gross weight of vehicles at which proof of payment of use tax is required; providing for permits for new vehicles used in events for promotion purposes; changing trip permit conditions; increasing fine for unlawful use of registration plates or certificates; allowing police to give age of parties in traffic accident to media; providing for service of notice of driver's license revocation by court; providing for chemical tests to determine presence of alcohol or controlled substance; prescribing contents of petition for judicial review of driver's license revocation; subjecting alcohol problem assessment rules to administrative procedure act; prescribing actions by drivers on one-way road when emergency vehicle approaching; requiring school buses on one-way, separated roads with shoulders to load and unload without flashing lights; allowing peace officers to weigh pickup towing trailer or semitrailer; providing for \$10 fee for class A classified provisional driver's license; allowing inspection of school buses for approved wheelchair devices; amending Minnesota Statutes 1986, sections 168.013, subdivision 20; 168.187, subdivision 17; 168.36, subdivision 2; 169.09, subdivision 13; 169.121, subdivision 7; 169.123, subdivision 5c; 169.124, subdivision 2; 169.20, subdivision 5; 169.44, subdivision 2; 169.85; 171.06, subdivision 2; and 299A.11; proposing coding for new law in Minnesota Statutes,

chapter 168.

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

Page 2, delete section 2

Page 2, after line 24, insert:

"Sec. 3. Minnesota Statutes 1986, section 168.27, subdivision 16, is amended to read:

Subd. 16. [PLATES, DISTINGUISHING NUMBERS.] (a) The registrar shall issue to every motor vehicle dealer, upon a request from the motor vehicle dealer licensed as provided in subdivisions 2 or 3, one or more plates displaying a general distinguishing number upon the payment of \$10 to the registrar. In addition the dealer shall pay a motor vehicle excise tax of \$15 annually for each dealer plate purchased as required by section 297B.035. The registrar shall deposit the tax in the state treasury and it shall be credited as provided in section 297B.09. Motor vehicles, new or used, owned by the motor vehicle dealer and bearing the number plate, except vehicles leased to the user who is not an employee of the dealer during the term of the lease, held for hire, or customarily used by the dealer as a tow truck, service truck, or parts pickup truck, may be driven upon the streets and highways of this state *as follows*:

(1) by the motor vehicle dealer, or any employee of the motor vehicle dealer or by any member of the immediate family of the dealer or employee for either private or business purposes; ~~or may be driven upon the streets and highways~~

(2) for demonstration purposes by any prospective buyer thereof for a period of 48 hours or in the case of a truck, truck-tractor, or semitrailer, for a period of seven days; *or*

(3) *in a promotional event, such as a parade or golf tournament, in which at least three motor vehicles are involved.*

(b) A new or used motor vehicle sold by the motor vehicle dealer and bearing the motor vehicle dealer's number plate may be driven upon the public streets and highways for a period of 72 hours by the buyer for either of the following purposes: (1) Removing the vehicle from this state for registration in another state, or (2) permitting the buyer to use the motor vehicle before the buyer receives number plates pursuant to registration. Use of a motor vehicle by the buyer under the provisions of clause (2) of the preceding sentence before the buyer receives number plates pursuant to registration constitutes a use of the public streets or highways for the purpose of the time requirements for registration of motor vehicles."

Page 4, line 14, delete ", ages," and strike "and" and insert a comma and after "addresses" insert ", and dates of birth"

Page 4, after line 30, insert:

"Notwithstanding other provisions of this subdivision to the contrary, the commissioner of public safety shall give to the commissioner of transportation the name and address of a carrier subject to section 221.031 that is named in an accident report filed under subdivision 7 or 8. The commissioner of transportation may not release the name and address to any person. The commissioner shall use this information to enforce accident report requirements under chapter 221. In addition the commis-

sioner of public safety may give to the United States Department of Transportation commercial vehicle accident information in connection with federal grant programs relating to safety."

Page 5, lines 1 to 4, delete the new language and insert "unless the commissioner has already revoked the person's driving privileges or served the person with a notice of revocation for a violation of section 169.123 arising out of the same circumstances that gave rise to the violation of this section"

Pages 9 and 10, delete section 11 and insert:

"Sec. 11. Minnesota Statutes 1986, section 169.44, subdivision 16, is amended to read:

Subd. 16. [OVERHEAD BOOK RACKS.] Types I and II school buses may be equipped with padded, permanent overhead book racks which do not hang over the center aisle of the bus. ~~The commissioner of education shall implement this subdivision by rule promulgated before July 1, 1985.~~

Sec. 12. Minnesota Statutes 1986, section 169.44, subdivision 17, is amended to read:

Subd. 17. ["MN" DESIGNATION IN BUS BODY SERIAL NUMBER.] School bus bodies manufactured after January 1, 1986 and used on streets and highways in this state must bear the designation "MN" in the bus body identification number. The manufacturer of the school bus body certifies by the "MN" designation that the bus body has been manufactured to meet the minimum standards required of school bus bodies by law. A school bus body manufactured before January 2, 1986, that does not bear a current inspection sticker on ~~June July 1, 1985~~ 1987, may not be used on streets and highways in the state after July 1, ~~1985~~ 1987, unless its manufacturer recertifies that the school bus body meets minimum standards required of school bus bodies by law. ~~The commissioner of education shall implement this subdivision by rule promulgated before July 1, 1985.~~

Page 11, line 15, after "vehicle" insert ", other than a school bus manufactured before January 1, 1988,"

Renumber the sections in sequence

Amend the title as follows:

Page 1, line 9, after the semicolon, insert "providing for the disclosure of certain information from accident reports;"

Page 1, line 19, delete everything after the semicolon and insert "removing obsolete deadlines;"

Page 1, line 20, delete everything before "providing"

Page 1, line 28, after the first semicolon, insert "168.27, subdivision 16;" and delete "subdivision 2" and insert "subdivisions 2, 16, and 17" and delete "169.85;"

Page 1, line 29, delete "; proposing coding" and insert a period

Page 1, delete line 30

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

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

S.F. No. 855: A bill for an act relating to retirement; various employee pension plans; specifying that exemptions from legal process do not include marital property divisions; requiring the provision of certain pension plan information in marriage dissolution actions; providing for court appointed actuaries in marriage dissolution actions; amending Minnesota Statutes 1986, sections 69.51; 352.15, subdivision 1; 352.96, by adding a subdivision; 352B.071; 353.15; 354.10; 354A.11; 422A.24; 423.39; 423.61; 423.813; 424.27; 518.54, subdivision 5, and by adding subdivisions; and 518.58; proposing coding for new law in Minnesota Statutes, chapters 356 and 518.

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

Page 5, line 4, after "*Upon*" insert "*written*" and before the comma, insert "*by a person with access to the data under subdivision 3*"

Page 10, line 19, after the period, insert "*If liquid or readily liquidated marital property other than property representing vested pension benefits or rights is available, the court, so far as possible, shall divide the property representing vested pension benefits or rights by the disposition of an equivalent amount of the liquid or readily liquidated property.*"

Page 11, line 30, before "*benefit*" insert "*annuity or*"

Page 11, line 31, before the period, insert "*, determined under the plan documents of the pension plan then in effect and the actuarial assumptions then in effect for calculating optional annuity forms by the pension plan or for calculating the funding requirements of the pension plan if no optional annuity forms are provided by the pension plan*"

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

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

S.F. No. 1034: A bill for an act relating to retirement; teacher retirement funds; providing for an increase in employer contributions; separating certain employer contributions into employer matching and employer additional contributions; amending Minnesota Statutes 1986, sections 354.42, subdivision 5; and 354A.12, subdivision 2.

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

Page 3, after line 3, insert:

"*Duluth teachers retirement
fund association*

2.02 percent"

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

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

S.F. No. 536: A bill for an act relating to environment; establishing a petroleum tank release cleanup program; authorizing state action to prevent or correct health and environmental damage resulting from releases from petroleum storage tanks; establishing a petroleum tank release cleanup fund; establishing a petroleum tank release compensation board; authorizing reimbursement from the fund; requiring rulemaking; providing for administration by the pollution control agency and the department of commerce; requiring certification of tank installers; appropriating money; amending Minnesota Statutes 1986, sections 116.46, by adding subdivisions; 116.47; and 116.48, subdivision 4; proposing coding for new law in Minnesota Statutes, chapter 116; proposing coding for new law as Minnesota Statutes, chapter 115C.

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

Page 3, line 17, delete "must" and insert "shall"

Page 6, line 31, delete everything after the first "board"

Page 6, line 32, delete "shall consist" and insert "consists"

Page 7, line 3, delete "is" and insert "are"

Page 7, line 17, delete "established as"

Page 7, line 19, delete "shall" and insert "must"

Page 8, line 8, delete "shall" and insert "must"

Page 11, line 35, delete "shall" and insert "must"

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

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

S.F. No. 1150: A bill for an act relating to state government; civil service; providing opportunities for persons with disabilities; amending Minnesota Statutes 1986, sections 43A.10, subdivision 8; 43A.13, subdivision 7; 43A.191, by adding a subdivision; 43A.42; proposing coding for new law in Minnesota Statutes, chapter 43A.

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

Delete everything after the enacting clause and insert:

"Section 1. [43A.071] [SERVICE WORKER.]

The disability levels and types covered under the service worker category in the state civil service may include persons with physical disabilities, mental health disabilities, and mental retardation.

Sec. 2. Minnesota Statutes 1986, section 43A.10, subdivision 8, is amended to read:

Subd. 8. [ELIGIBILITY FOR QUALIFIED HANDICAPPED EXAMINATIONS.] The commissioner shall establish examination procedures for

candidates whose handicaps are of such a severe nature that the candidates are unable to demonstrate their abilities in competitive examination processes. The examination procedures shall consist of up to 700 hours on-the-job trial work experience which will be in lieu of a competitive examination and for which the disabled person has the option of being paid or unpaid. *Up to three persons with severe disabilities and their job coach shall be allowed to demonstrate their job competence as a unit through the on-the-job trial work experience examination procedure.* This work experience shall be limited to candidates for appointment, promotion, or transfer who have a physical or mental impairment for which there is no reasonable accommodation in the examination process. Implementation of provisions of this subdivision shall not be deemed a violation of other provisions of Laws 1981, chapter 210 or 363.

Sec. 3. [43A.421] [SUPPORTED WORK PROGRAM.]

A total of 50 additional full-time positions within agencies of state government may be selected for inclusion for a supported work program for persons with severe disabilities. A full-time position may be shared by up to three persons with severe disabilities and their job coach."

Amend the title as follows:

Page 1, line 4, delete "sections" and insert "section"

Page 1, line 5, delete everything after the first semicolon

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

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

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

S.F. No. 980: A bill for an act relating to retirement; public pension plans; establishing, codifying, clarifying, and revising the obligations, responsibilities, and liabilities of public pension plan fiduciaries; amending Minnesota Statutes 1986, sections 11A.01; 11A.04; 11A.07, subdivision 4; 11A.08, subdivisions 5 and 6; 11A.09; 11A.13, subdivision 1; 69.30; 69.77, subdivision 2g; 69.775; 136.80, subdivision 1; 136.84; 352.03, subdivisions 1, 4, 6, 7, and 11; 352.05; 352.92, by adding a subdivision; 352.96, subdivision 3; 352B.03; 352B.05; 352B.07; 352C.091, subdivision 1; 352D.09, subdivision 1; 353.03, subdivisions 1 and 3a; 353.05; 353.06; 353.08; 353.68, subdivision 1; 354.06, subdivisions 1, 2a, and 3; 354.07, subdivisions 3 and 4; 354A.021, subdivision 6; 354A.08; 422A.05, subdivisions 2a, 2c, and 2d; 423.374; 423.45; 423.805; 423A.21, subdivision 4; 424.06; 424A.001, subdivision 7; 424A.04, subdivision 2; 490.122; and 490.123, subdivision 2; proposing coding for new law in Minnesota Statutes, chapters 3A and 490; proposing coding for new law as Minnesota Statutes, chapter 356A; repealing Minnesota Statutes 1986, sections 69.051, subdivision 2; 69.30, subdivision 3; 356.71; 423.374, subdivision 3; 423.45, subdivision 3; 423.812; and 424.06, subdivision 3.

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

Page 5, line 30, delete everything after "over"

Page 5, line 31, delete "takes part in" and delete "such" and after the

second "a" insert "covered pension"

Page 5, line 32, delete everything after "plan"

Page 5, line 33, delete "plan"

Page 6, line 4, before "position" insert "fiduciary"

Page 6, line 36, after "the" insert "governing" and delete everything after the first "board"

Page 7, line 4, delete "providing" and insert "who provides"

Page 7, line 20, delete "no" and insert "a"

Page 7, line 21, after "may" insert "not"

Page 7, line 26, delete "no" and insert "a" and delete "may" and insert "that"

Page 7, delete line 27

Page 7, line 28, delete everything before "is"

Page 7, line 29, after "and" insert "for which"

Page 7, line 31, before the period, insert "may not provide consulting, management, or advisory services to a covered pension plan"

Page 8, after line 15, insert:

"Subd. 5. [DOCUMENTATION.] In determining the applicability of this section, the state board of investment or a public pension plan may rely on any applicable disclosure form meeting the requirements of the federal Investment Adviser Act of 1940, as amended through the effective date of this section, and filed with the state board of investment or the pension plan."

Page 8, delete lines 25 to 30

Page 8, line 31, delete everything before "(a)" and insert:

"Subd. 2. [PRUDENT PERSON STANDARD.]"

Page 9, delete lines 8 to 14

Page 9, line 31, delete "but" and insert "than"

Page 10, line 6, after "plan" insert "or of the state board of investment"

Page 10, line 32, after the period, insert "A disclosure form meeting the requirements of the federal Investment Adviser Act of 1940, as amended, and filed with the state board of investment or the pension plan meets the requirements of this subdivision."

Page 11, line 11, after the period, insert "For the state board of investment, the disclosure document may be included as a part of any regular annual report of the board and will be considered to have been filed on a timely basis."

Page 11, line 15, delete "do any of the following"

Page 12, line 16, delete "has issued" and insert "issues"

Page 13, line 3, delete "mutual fund" and insert "investment company"

Page 13, line 8, delete "covered" and insert "described" and delete "may" and insert ", paragraph (a), shall only"

Page 13, line 9, delete "only"

Page 13, line 12, delete "covered" and insert "described" and after "6" insert ", paragraph (a),"

Page 14, line 21, after "shall" insert "prepare and"

Page 14, line 26, after the period, insert "*The chief administrative officer may utilize the services of the covered governmental entity in providing the summary.*"

Page 14, line 29, delete "APPEALS" and insert "REVIEW"

Page 14, line 30, delete "prepare" and insert "propose"

Page 14, line 32, delete "hearing and deciding the appeal of" and insert "reviewing"

Page 14, line 35, after the period, insert "*The review procedure may afford the plan participant or benefit recipient an opportunity to present views at any review proceeding conducted, but is not a contested case under chapter 14.*"

Page 15, line 10, delete "way" and insert "method used in funding" and delete "is funded"

Page 15, line 21, delete "evaluation" and insert "valuation"

Page 15, line 28, delete "a place accessible to the"

Page 15, delete lines 29 to 33 and insert "compliance with section 471.705."

Page 15, line 35, after "plan" insert "or a direct relative of a fiduciary"

Page 16, lines 6 and 10, delete "applicable"

Page 16, line 13, delete "an applicable" and insert "the"

Page 16, line 18, delete everything after the first comma

Page 16, delete lines 19 and 20 and insert "*deliberate, or the product of gross negligence.*"

Page 16, line 26, after the second comma, insert "or"

Page 16, line 27, delete ", or criminal sanctions"

Page 16, line 30, delete "or"

Page 16, line 31, delete "unintentional"

Page 17, line 3, delete the comma and insert ". Compensatory damages are"

Page 17, lines 4 and 9, delete "7" and insert "6"

Page 17, line 5, delete "Punitive damages are the"

Page 17, delete line 6

Page 17, line 7, delete "fiduciary breach." and insert "*A fiduciary may also be personally liable for punitive damages for an intentional fiduciary breach if the breach is particularly egregious.*"

Page 17, line 19, before the semicolon, insert ", unless the person is an elected official"

Page 17, line 23, delete "*fiduciary act or*" and insert "*ministerial*"

Page 17, delete lines 24 to 32

Page 18, line 9, before "*other*" insert "*fiduciary activities of the*"

Page 18, line 16, after "*or*" insert "*to appropriate*"

Page 18, line 28, after the second "*activities*" insert "*specifically*"

Page 18, line 31, after "*not*" insert "*specifically*"

Page 21, line 14, before "*bonding*" insert "*fidelity*"

Page 21, line 15, after "*fiduciary*" insert "*who is an employee of the pension plan and*" and delete everything after "*for*"

Page 21, line 18, before the period, insert "*, unless the person is exempt by law from being bonded as a state official or as a state employee*"

Page 21, line 19, after "*For*" insert "*a*" and delete "*plans*" and insert "*plan*"

Page 21, line 24, after "*For*" insert "*a*" and delete "*plans*" and insert "*plan other than a first-class city teachers retirement fund association*"

Page 21, after line 25, insert:

"*(d) For a first-class city teachers retirement fund association, the board of the association shall set the amount of the bond.*"

Page 21, line 26, delete "*(d)*" and insert "*(e)*"

Pages 21 to 23, delete sections 17 and 18

Page 23, delete lines 17 to 21

Page 24, delete lines 10 to 20

Page 24, line 21, delete "*(7)*" and insert "*(1)*"

Page 24, line 22, delete "*(8)*" and insert "*(2)*"

Page 24, line 23, delete "*(9)*" and insert "*(3)*"

Page 24, line 27, delete "*(10)*" and insert "*(4)*"

Page 24, line 28, delete "*(11)*" and insert "*(5)*"

Renumber the subdivisions in sequence

Page 26, delete section 21

Page 26, delete line 14

Page 26, line 15, delete "*18 to 21*" and insert:

"*Sections 1 to 18*"

Renumber the sections of article 1 in sequence

Page 29, line 27, delete "*356A.10*" and insert "*356A.15*"

Page 30, line 13, before "*shall*" insert "*, for the investment of funds other than pension fund assets,*" and after "*in*" reinstate the stricken language

Page 30, lines 14 to 18, reinstate the stricken language

Page 30, line 19, reinstate the stricken language and before "*accordance*" insert "*and, for the investment of pension fund assets, shall act in*"

Page 38, line 13, delete "3" and insert "2"

Page 41, line 12, delete "3" and insert "2"

Page 47, line 22, delete "3" and insert "2"

Page 51, line 22, delete "3" and insert "2"

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

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

S.F. No. 281: A bill for an act relating to motor vehicles; abolishing authority to appoint corporations as deputy registrars; providing for transfer of appointments of corporations as deputy registrars to individuals under certain conditions; amending Minnesota Statutes 1986, section 168.33, subdivision 2.

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

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 1986, section 168.012, subdivision 1c, is amended to read:

Subd. 1c. (a) The annual administrative fee for a tax-exempt vehicle under this section is \$5. The license plate fee for a tax-exempt vehicle, except a trailer, is \$10 for two plates per vehicle, payable only on the first tax-exempt registration of the vehicle. The registration period for a tax-exempt vehicle is biennial. The administrative fee is due on March 1 biennially and payable the preceding January 1, with validating stickers issued at time of payment.

(b) ~~The owner of a tax-exempt vehicle shall apply for tax-exempt license plates, and pay the administrative and plate fees, and the filing fee under section 168.33, subdivision 7, only to a deputy registrar in the county in which the vehicle is domiciled.~~

Sec. 2. Minnesota Statutes 1986, section 168.33, subdivision 2, is amended to read:

Subd. 2. [POWERS.] (a) The registrar shall have the power to appoint, hire and discharge and fix the compensation of the necessary employees, in the manner provided by law, as may be required to enable the registrar to properly carry out the duties imposed by the provisions of this chapter. ~~As of April 14, 1976, the registrar may appoint, and for cause discontinue, a deputy registrar for any city as the public interest and convenience may require, without regard to whether the county auditor of the county in which the city is situated has been appointed as the deputy registrar for the county or has been discontinued as the deputy registrar for the county, and without regard to whether the county in which the city is situated has established a county license bureau which issues motor vehicle licenses as provided in section 373.32.~~

Effective August 1, 1976, the registrar may appoint, and for cause discontinue, a deputy registrar for any city as the public interest and convenience may require, if the auditor for the county in which the city is situated chooses not to accept appointment as the deputy registrar for the

county or is discontinued as a deputy registrar, or if the county in which the city is situated has not established a county license bureau which issues motor vehicle license as provided in section 373.32. Any person appointed by the registrar as a deputy registrar for any city shall be a resident of the county in which the city is situated.

(b) The registrar ~~may~~ shall appoint, and may for cause discontinue, the county auditor of each county that has not established a county license bureau under section 373.32 or the director of the county license bureau of each county that has established such a bureau as a deputy registrar. Before appointing a county auditor as a deputy registrar in a county that has not established a county license bureau under section 373.32, the registrar shall notify the county board of its option to establish a county license bureau. If the county board notifies the registrar that it chooses not to establish a county license bureau, or if it takes no action within 90 days of its notification by the registrar, the registrar may appoint the auditor as a deputy registrar. Each auditor or director shall maintain and operate at least one registration and motor vehicle tax collection bureau in the county seat.

(c) Upon approval of the county board, the auditor or director, with the approval of the ~~director of motor vehicles registrar~~, may appoint, and for cause discontinue, the clerk or equivalent officer of each city or ~~any other person an officer, director, or other person representing and accepting the appointment on behalf of a nonprofit corporation~~ as a deputy registrar as public interest and convenience may require, ~~regardless of the appointee's county of residence. Notwithstanding any other provision, a person other than a~~ The county auditor or a director of a county license bureau, who was appointed by the registrar before August 1, 1976, as a deputy registrar for any city, may continue contract with any other person, in accordance with this subdivision and with rules adopted by the registrar, to serve as provide services that ordinarily would be provided by a deputy registrar and may be discontinued for cause only by the registrar. A county auditor or director may contract for services as a deputy registrar only if:

(1) the auditor or director has established that interests of public need and convenience would be served by the establishment of a deputy registrar's office at a location at which one does not exist;

(2) the proposed office would not be within 15 miles or 25 minutes driving time of an existing office;

(3) no city clerk or equivalent officer is available for appointment as deputy registrar to serve that location, or the city has declined to have a city officer serve as deputy registrar; and

(4) the projected estimated number of applications that would be processed at the proposed office is not great enough to support the establishment of a county or city office to serve that location, and in any event would not exceed 25,000 a year.

A contract must be awarded to the lowest qualified bidder, but in no event may the compensation paid to a contractor for each application processed by the contractor exceed the filing fee set by subdivision 7. The county auditor or director who appointed or contracted with the deputy registrars ~~shall be~~ or contractors is responsible for the acts of deputy registrars appointed or awarded contracts by the auditor or director. Each such deputy, before entering upon the discharge of duties, shall take and

subscribe an oath to faithfully discharge the duties and to uphold the laws of the state. If ~~A contractor or a deputy registrar appointed hereunder who~~ is not an officer or employee of a county or city, ~~such deputy shall in addition give bond to the state in the sum of \$10,000, or such larger sum as may be required by the registrar, conditioned upon the faithful discharge of duties as deputy registrar. A corporation governed by chapter 302A may be appointed a deputy registrar. Upon application by an individual serving as a deputy registrar and the giving of the requisite bond as provided in subdivision 2, personally assured by the individual or another individual approved by the commissioner of public safety, a corporation named in an application shall become the duly appointed and qualified successor to the deputy registrar.~~ Each deputy registrar ~~appointed hereunder and contractor~~ shall keep and maintain, in a convenient public place within the place for which appointed, a registration and motor vehicle tax collection bureau, to be approved by the registrar, for the registration of motor vehicles and the collection of motor vehicle taxes ~~thereon~~.

(d) The registrar shall adopt rules requiring the operation of registration and motor vehicle tax collection bureaus outside normal business hours at locations where public interest and convenience may require such operation and where such operation would not impose undue hardship or expense on a county or city.

(e) A courier or other person transmitting applications, payments, certificates, licenses, or other documents and materials connected with the registration of motor vehicles and the payment of motor vehicle taxes between the office of a deputy registrar or contractor and a motor vehicle dealer, bank or other financial institution, or insurance office or agency must be an employee of that deputy registrar or contractor. If a deputy registrar or contractor wishes to provide courier service to a place and another deputy or contractor maintains an office closer to that place, the deputy or contractor wishing to provide the service may do so only if the distance from that deputy's or contractor's office to the place to be served is no more than 150 percent of the distance from that place to the closest office of a deputy or contractor.

(f) The deputy registrar shall keep such records and make such reports to the registrar as ~~that officer, from time to time, the registrar may require.~~ Such records ~~shall must~~ be maintained at the facility of the deputy registrar. The records and facilities of the deputy registrar ~~shall must~~ at all times be open to the inspection of the registrar or the registrar's agents. The deputy registrar shall report to the registrar by the next working day following receipt all registrations made and taxes and fees collected by the deputy registrar. The filing fee imposed ~~pursuant to~~ by subdivision 7 ~~shall must~~ be deposited in the treasury of the place for which the deputy registrar is appointed or the county to which the contractor is under contract, ~~or if not a public official, such deputy shall retain the filing fee,~~ but the registration tax and any additional fees for delayed registration the deputy registrar has collected the deputy registrar shall deposit by the next working day following receipt in an approved state depository to the credit of the state through the state treasurer.

(g) The state auditor shall audit the books and accounts of each deputy registrar who is not a public official and each contractor providing services of a deputy registrar once each year or as often as funds and personnel of the state auditor permit. The deputy registrar or contractor shall pay to the state the total cost and expenses of the examination, including the

salaries paid to the auditors while actually engaged in making the examination. The revolving fund of the state auditor must be credited with all collections made for any examination.

(h) The place for which the deputy registrar is appointed through its governing body shall provide the deputy registrar with facilities and personnel to carry out the duties imposed by this subdivision if such deputy is a public official. In all other cases, the deputy or contractor shall maintain a suitable facility for serving the public.

Sec. 3. [TRANSFER OF APPOINTMENT.]

Notwithstanding section 168.33, subdivision 2, an appointing authority shall transfer the appointment of a corporation as a deputy registrar to the person who, in an individual capacity, held the appointment for that office before the appointment of the corporation or, if a corporation has been sold or transferred since its appointment as a deputy registrar but before February 19, 1987, to the purchaser or transferee or, if more than one, one of the purchasers or transferees. To qualify for a transfer of an appointment under this section, a person shall apply in writing to the registrar by August 1, 1987.

Sec. 4. [TERMINATION OF APPOINTMENTS.]

Subdivision 1. [DEFINITION.] For purposes of this section, "private deputy registrar" means a deputy registrar of motor vehicles who is neither a public official nor a person representing and accepting appointment as deputy registrar on behalf of a nonprofit corporation.

Subd. 2. [EXISTING PRIVATE DEPUTY REGISTRARS.] Notwithstanding section 168.33, subdivision 2, a deputy registrar holding an appointment on the effective date of this act, or a person to whom an appointment is transferred under section 3, may continue to serve as a deputy registrar until the deputy registrar retires, dies, or voluntarily terminates operations. Nothing in section 168.33, subdivision 2, or section 3 prevents a private deputy registrar or a contractor providing the services of a deputy registrar from operating an office as a business corporation so long as the appointment as deputy registrar is held by an individual.

Subd. 3. [OPERATIONS IN COUNTY SEATS; EXCEPTIONS.] Notwithstanding section 168.33, subdivision 2, a county auditor or director of a county license bureau in a county where a private deputy registrar covered by subdivision 2 operates a registration and motor vehicle tax collection bureau in the county seat need not maintain and operate a bureau in the county seat until the private deputy registrar ceases operations there.

Subd. 4. [COMPENSATION.] By January 1, 1988, the registrar of motor vehicles shall submit to the legislature a plan for compensating persons who, before February 19, 1987, purchased a corporation appointed as a deputy registrar for the loss of the resale value of that purchase. The plan must include a method by which the registrar will determine the loss for each purchaser."

Delete the title and insert:

"A bill for an act relating to motor vehicles; abolishing authority to appoint corporations or private individuals other than persons acting on behalf of nonprofit corporations as deputy registrars; providing for transfer of appointments of corporations as deputy registrars to individuals under

certain conditions; requiring county auditors or directors of county license bureaus to operate and maintain registration and motor vehicle tax collection bureaus in county seats; providing certain exceptions; permitting counties to contract with private individuals for deputy registrar services in certain instances; requiring the registrar of motor vehicles to adopt rules governing the hours of operation of deputy registrar offices; requiring the registrar to notify counties of their option to establish county license bureaus before appointing county auditors as deputy registrars; regulating courier services; requiring the audit of private deputy registrars and contractors; permitting private individuals holding appointments as deputy registrars or qualifying for transfers of appointments held by corporations to continue to operate as deputy registrars; requiring the registrar of motor vehicles to develop a plan for compensating persons who by a certain date purchased corporations holding appointments as deputy registrars; amending Minnesota Statutes 1986, sections 168.012, subdivision 1c; and 168.33, subdivision 2."

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

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

S.F. No. 674: A bill for an act relating to public employees; setting salaries and salary ranges for certain employees; amending Minnesota Statutes 1986, sections 15A.081, subdivisions 1, 6, 7, 7b, and by adding a subdivision; 15A.083, subdivisions 1 and 4; and 298.22, subdivision 1.

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

Page 1, strike line 21 and insert:

"Commissioner of finance; \$60,000-\$78,500"

Page 1, line 22, strike "finance" and insert "education"

Page 2, line 1, strike "\$50,000-\$60,000" and insert
"\$55,000-\$67,500"

Page 2, line 31, strike "\$40,000-\$52,500" and insert
"\$47,500-\$60,000"

Page 4, lines 17 and 35, after the period, insert *"In June of the year in which a salary increase is to be adopted, and"*

Page 5, line 4, delete "95 percent of"

Page 5, delete line 5 and insert *"maximum salary set for the commissioner of administration under subdivision 1."*

Page 5, line 17, delete "\$79,719" and insert "\$80,000"

Page 5, line 20, delete "73,981" and insert "75,000"

Page 5, line 23, delete "71,169" and insert "72,500"

Page 5, line 26, delete "68,249" and insert "70,000"

Page 6, line 24, strike "32,000-44,000" and insert
"\$34,000-\$48,000"

Page 6, after line 25, insert:

"Sec. 8. Minnesota Statutes 1986, section 214.04, subdivision 3, is amended to read:

Subd. 3. The executive secretary of each health-related and non-health-related board shall be the chief administrative officer for the board but shall not be a member of the board. The executive secretary shall maintain the records of the board, account for all fees received by it, supervise and direct employees servicing the board, and perform other services as directed by the board. The executive secretaries and other employees of the following boards shall be hired by the board, and the executive secretaries shall be in the unclassified civil service, except as provided in this subdivision:

- (1) dentistry;
- (2) medical examiners;
- (3) nursing;
- (4) pharmacy;
- (5) accountancy;
- (6) architecture, engineering, land surveying and landscape architecture;
- (7) barber examiners;
- (8) cosmetology;
- (9) electricity;
- (10) teaching; and
- (11) peace officer standards and training.

The board of medical examiners shall set the salary of its executive director, which may not exceed 95 percent of the top of the salary range set for the commissioner of health in section 15A.081, subdivision 1. *In June of the year in which a salary increase is to be adopted, and at least 30 days before the board of medical examiners adopts a salary increase for its executive director, the board shall submit the proposed salary increase to the legislative commission on employee relations for its review approval, modification, or rejection in the manner provided in section 43A.18, subdivision 2.*

The executive secretaries serving the remaining boards shall be hired by those boards, and shall be in the unclassified civil service except for part-time executive secretaries, who are not required to be in the unclassified service. Boards not requiring a full-time executive secretary may employ such services on a part-time basis. To the extent practicable the sharing of part-time executive secretaries by boards being serviced by the same department is encouraged. Persons providing services to those boards not listed in this subdivision, except executive secretaries of the boards and employees of the attorney general, shall be classified civil service employees of the department servicing the board. To the extent practicable the commissioner shall insure that staff services are shared by the boards being serviced by the department. If necessary, a board may hire part-time, temporary employees to administer and grade examinations."

Page 6, line 26, delete "8" and insert "9"

Page 7, line 3, after "commission" insert "and may not exceed the maximum salary set for the commissioner of administration under section 15A.081, subdivision 1"

Page 7, after line 15, insert:

"Sec. 10. [RATIFICATION.]

The salaries for certain agency heads recommended for approval by the legislative commission on employee relations on March 31, 1987, are ratified, retroactive to January 16, 1987."

Amend the title as follows:

Page 1, line 6, after the semicolon, insert "214.04, subdivision 3;"

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

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

S.F. No. 776: A bill for an act relating to natural resources; creating the state board of water and soil resources and providing for its administration and powers and duties; abolishing the state soil and water conservation board and the water resources board; amending the duties of the environmental quality board; amending Minnesota Statutes 1986, sections 40.01, subdivision 4; 40.03, subdivision 4; 40.035, subdivision 2; 40.21, subdivisions 1 and 3; 40.43, subdivision 1; 105.73; 110B.02, subdivision 2; 112.35, subdivision 4; 116C.03, subdivision 2; 473.876, by adding a subdivision; 473.877, subdivision 2; 473.8771, subdivisions 1 and 2; and 473.878, subdivisions 7 and 8; proposing coding for new law in Minnesota Statutes, chapter 110B; repealing Minnesota Statutes 1986, sections 40.03, subdivisions 1, 1a, 2, and 3; 105.71; 116C.40, subdivision 3; and 116C.41, subdivision 2.

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

Page 5, line 27, delete "15" and insert "11"

Page 5, line 32, delete "seven" and insert "three"

Page 5, line 33, delete "managers"

Page 6, line 4, delete everything after "least"

Page 6, delete lines 5 to 13

Page 6, line 14, delete the paragraph coding and delete "(6)" and delete "six" and insert "five"

Page 6, line 17, delete the paragraph coding and delete "(7) seven members,"

Page 6, delete lines 19 to 27

Page 7, line 6, delete everything after "employees"

Page 7, line 7, delete "duties. Compensation of employees shall be determined"

Renumber the subdivisions in sequence

Page 12, line 32, delete "TRANSFER OF EMPLOYEES" and insert "MEMBERSHIP; COMPLEMENT OF BOARD"

Page 12, after line 32, insert:

"Subdivision 1. [TRANSITION MEMBERSHIP.] In addition to the members specified in section 9, the initial board shall have for a period of three years four temporary members who shall be soil and water conservation district supervisors."

Page 12, line 33, before "All" insert:

"Subd. 2. [TRANSFER OF EMPLOYEES.]"

Page 12, line 33, after "state" insert "positions and"

Page 12, line 35, delete "may be" and insert "are"

Page 12, line 36, after "resources" insert "in accordance with section 15.039, subdivision 7"

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

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

S.F. No. 1112: A bill for an act relating to athletic and sporting events; creating the Minnesota amateur sports commission and providing its powers and duties; requiring the sponsorship of certain amateur athletic events; authorizing an admission tax; appropriating money; proposing coding for new law as Minnesota Statutes, chapter 240A.

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

Page 1, line 20, delete "real or"

Page 1, line 21, delete "or both"

Pages 1 and 2, delete section 2 and insert:

"Sec. 2. [240A.02] [MINNESOTA AMATEUR SPORTS COMMISSION.]

Subdivision 1. [MEMBERSHIP; COMPENSATION; CHAIR.] The Minnesota amateur sports commission consists of nine members, four of whom must be experienced in promoting amateur sports, appointed by the governor to six-year terms. Compensation and removal of members and the filling of membership vacancies are as provided in section 15.0575. A member may be reappointed. The governor shall appoint the chair of the commission after consideration of the commission's recommendation.

Subd. 2. [MEETINGS.] The commission shall meet at least quarterly and at other times determined by the commission and shall adopt rules governing its proceedings.

Subd. 3. [STAFF] The commission shall appoint an executive director, who may hire other employees authorized by the commission. The executive director and any other employees are in the unclassified service under section 43A.08."

Page 2, lines 28 and 32, delete "real or"

Page 2, line 31, delete "construct,"

Page 2, lines 32 and 33, delete "or both"

Page 2, line 34, delete "Real or"

Page 3, line 4, delete "*shall be*" and insert "*are*"

Page 3, line 8, delete everything after the period

Page 3, delete lines 9 to 18

Page 3, line 20, delete "*real or*"

Page 3, line 26, delete "*, and may employ*" and insert "*with*"

Page 4, delete lines 12 to 19

Page 4, line 20, delete "*11*" and insert "*10*"

Page 4, line 29, delete "*12*" and insert "*11*"

Page 4, lines 31 and 32, delete "*The rules and procedures are exempt from the rulemaking requirements of chapter 14.*"

Page 5, delete lines 1 to 36 and insert:

- "(1) promote the development of olympic training centers;*
- (2) promote physical fitness by promoting participation in sports;*
- (3) develop, foster, and coordinate physical fitness services and programs;*
- (4) sponsor amateur sport workshops, clinics, and conferences;*
- (5) provide recognition for outstanding developments, achievements, and contributions to amateur sports;*
- (6) stimulate and promote amateur sport research;*
- (7) collect, disseminate, and communicate amateur sport information;*
- (8) promote amateur sport and physical fitness programs in schools and local communities;*
- (9) develop programs to promote personal health and physical fitness by participation in amateur sports in cooperation with medical, dental, sports medicine, and similar professional societies;*
- (10) promote the development of recreational amateur sport opportunities and activities in the state, including the means of facilitating acquisition, financing, construction, and rehabilitation of sports facilities for the holding of amateur sporting events;*
- (11) promote national and international amateur sport competitions and events;*
- (12) sanction or sponsor amateur sport competition; and*
- (13) take membership in regional or national amateur sports associations or organizations."*

Page 6, lines 11, 15, and 22, delete "*shall*" and insert "*must*"

Page 6, after line 27, insert:

"Sec. 8. [INITIAL APPOINTMENTS.]

Notwithstanding section 2, the governor shall appoint the initial members of the commission as follows:

- (1) three members to two-year terms;*
- (2) three members to four-year terms; and*

(3) *three members to six-year terms.*"

Page 6, line 28, delete "8" and insert "9"

Page 6, line 29, delete "7" and insert "8"

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

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

S.F. No. 1173: A bill for an act relating to education; changing the name of the school of the arts; increasing the powers of its board; permitting its staff and certain students to be in the unclassified service; appropriating money; amending Minnesota Statutes 1986, sections 43A.08, subdivisions 1 and 1a; 43A.18, subdivision 4; 129C.10, subdivisions 1, 3, 4, 5, 6, and by adding subdivisions.

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

Page 4, delete section 3

Pages 5 to 7, delete section 5 and insert:

"Sec. 4. Minnesota Statutes 1986, section 129C.10, subdivision 3, is amended to read:

Subd. 3. [POWERS AND DUTIES OF BOARD.] (a) The board has the powers necessary for the care, management, and control of the Minnesota school ~~of and resource center for the arts and resource center and all its real and personal property.~~ The powers shall include, but are not limited to, ~~the following; those listed in this subdivision.~~

(1) ~~to~~ (b) *The board may employ and discharge necessary employees, and contract for other services to ensure the efficient operation of the school and resource center.*

(2) ~~to~~ (c) *The board may establish a charitable foundation and accept, in trust or otherwise, any gift, grant, bequest, or devise for educational purposes and hold, manage, invest, and dispose of them and the proceeds and income of them according to the terms and conditions of the gift, grant, bequest, or devise and its acceptance.*

(3) ~~to~~ (d) *The board may establish or coordinate evening, continuing education, extension, and summer programs through the resource center for teachers and pupils.*

(4) ~~to~~ (e) *The board may develop and pilot test an interdisciplinary education program. An academic curriculum must be offered with special programs in dance, literary arts, media arts, music, theater, and visual arts in both the popular and fine arts traditions.*

(5) ~~to~~ (f) *The board may determine the location for the Minnesota school of and resource center for the arts and resource center and any additional facilities related to the school, including the authority to lease a temporary facility.*

(6) ~~to~~ (g) *The board may plan for the enrollment of pupils to ensure statewide access and participation.*

~~(7) to (h)~~ *The board may establish advisory committees as needed to advise the board on policies and issues; and.*

~~(8) to (i)~~ *The board may request the commissioner of education for assistance and services.*

(j) The board may enter into contracts with other public and private agencies and institutions to provide residential and building maintenance services if it determines that these services could be provided more efficiently and less expensively by a contractor than by the board itself. The board may also enter into contracts with public or private agencies and institutions, school districts or combinations of school districts, or educational cooperative service units to provide supplemental educational instruction and services.

(k) The board may provide or contract for services and programs by and for the school for the arts, including a school store, operating in connection with the school; theatrical events; and other programs and services that, in the determination of the board, serve the purposes of the school for the arts.

(l) The board may provide for the transportation of pupils to and from the school for the arts for all or part of the school year, as the board considers advisable and subject to its rules. Notwithstanding any other law to the contrary, the board may charge a reasonable fee for the transportation of pupils. Every driver providing transportation of pupils under this paragraph must possess all qualifications required by the state board of education. The board may contract for furnishing authorized transportation under rules established by the commissioner of education and may purchase gasoline and furnish it to a contract carrier for use in the performance of a contract with the board for transportation of pupils to and from the school for the arts. When transportation is provided, scheduling of routes, establishment of the location of bus stops, the manner and method of transportation, the control and discipline of pupils, and other related matters are within the sole discretion, control, and management of the board.

(m) The board may provide room and board for its pupils.

(n) The board may establish and set fees for services and programs without regard to chapter 14. In the event that the board sets fees not authorized or prohibited by the Minnesota public school fee law, it may do so without complying with the requirements of section 120.75, subdivision 1."

Pages 7 and 8, delete section 8 and insert:

"Sec. 7. Minnesota Statutes 1986, section 129C.10, is amended by adding a subdivision to read:

Subd. 4a. [ADMISSION AND CURRICULUM REQUIREMENTS GENERALLY.] *(a) The board may adopt rules for admission to and discharge from the school and rules regarding the operation of the school and resource center, including the transportation of its pupils. Rules covering admission and discharge are governed by chapter 14. Rules regarding the operation of the school are not governed by chapter 14.*

(b) Proceedings concerning admission to or discharge from the school, a pupil's program at the school, and a pupil's progress at the school are governed by the rules adopted by the board and are not contested cases

governed by chapter 14.

(c) *Notwithstanding section 120.10, subdivision 1, the board may require pupils to attend school more than 200 days a school year.*"

Renumber the sections in sequence

Amend the title as follows:

Page 1, line 7, delete "43A.18, subdivision 4;"

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

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

S.F. No. 514: A bill for an act relating to human services; creating the office of ombudsman for mental health and mental retardation; providing for the powers and duties of the ombudsman; creating a medical review board; requiring reporting of abuse and neglect to the ombudsman for mental health and mental retardation; amending Minnesota Statutes 1986, sections 13.66; 626.556, subdivisions 9 and 10; and 626.557, subdivision 9; proposing coding for new law in Minnesota Statutes, chapter 245.

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

Pages 1 and 2, delete section 1 and insert:

"Section 1. Minnesota Statutes 1986, section 13.46, subdivision 1, is amended to read:

Subdivision 1. [DEFINITIONS.] As used in this section:

(a) "Individual" means an individual pursuant to section 13.02, subdivision 8, but does not include a vendor of services.

(b) "Program" includes all programs for which authority is vested in a component of the welfare system pursuant to statute or federal law.

(c) "Welfare system" includes the department of human services, county welfare boards, county welfare agencies, human services boards, community mental health center boards, state hospitals, state nursing homes, *the ombudsman for mental health and mental retardation*, and persons, agencies, institutions, organizations, and other entities under contract to any of the above agencies to the extent specified in the contract.

(d) "Mental health data" means data on individual clients and patients of community mental health centers, established under section 245.62, ~~or~~ mental health divisions of counties and other providers under contract to deliver mental health services, *or the ombudsman for mental health and mental retardation.*"

Page 3, line 3, delete "office of"

Page 3, line 4, delete "is created. The ombudsman"

Page 3, line 22, delete "shall be" and insert "are"

Page 5, lines 19 and 20, delete "shall" and insert "may"

Page 6, line 27, delete "ESTABLISHMENT;" and delete "An" and insert "The"

Page 6, line 28, delete "*consisting*" and insert "*consists*" and delete "*shall be*"

Page 6, line 29, before the period, insert "*to three-year terms*"

Page 7, line 8, delete "TERMS OF SERVICE" and insert "COMPENSATION" and delete "*Members shall be*"

Page 7, delete lines 9 to 12

Page 7, line 13, delete everything before "*Members*"

Page 7, line 29, delete "*shall*" and insert "*must*"

Page 7, lines 33 and 34, delete "*has the power to*" and insert "*may*"

Page 8, line 16, after "*committee*" insert "*and the filling of membership vacancies*"

Page 8, lines 16 and 17, delete "*, except as provided in this section*"

Page 12, after line 34, insert:

"Sec. 12. [INITIAL APPOINTMENTS.]

Notwithstanding section 8, the governor shall appoint the initial members of the ombudsman committee as follows:

- (1) five members to one-year terms;*
- (2) five members to two-year terms; and*
- (3) three members to three-year terms."*

Amend the title as follows:

Page 1, line 8, delete "13.66" and insert "13.46, subdivision 1"

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

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

S.F. No. 1033: A bill for an act relating to retirement; clarifying the responsibilities of the actuary retained by the legislative commission on pensions and retirement; clarifying and revising various actuarial determinations and procedures; authorizing the retention of actuarial advisors by various retirement funds; specifying the contents and methods for supplemental and alternative actuarial valuations; establishing a separate fund for the correctional employees retirement fund; amending Minnesota Statutes 1986, sections 3.85, subdivision 12; 3A.11, subdivision 1; 11A.18, subdivisions 6, 9, and 11; 69.77, subdivisions 2b and 2h; 69.772, subdivision 3; 69.773, subdivisions 2 and 4; 136.82, subdivision 2; 352.01, subdivision 12; 352.03, subdivision 6; 352.116, subdivisions 1, 3, and by adding a subdivision; 352.119, subdivision 2; 352.85, subdivision 6; 352.86, subdivision 4; 352B.01, by adding a subdivision; 352B.02, subdivision 1; 352B.08, subdivision 2; 352B.26, subdivision 3; 353.01, subdivision 14; 353.03, subdivision 3a; 353.271; 353.29, subdivision 6; 353.30, subdivision 3; 354.05, subdivision 7; 354.06, subdivision 2a; 354.07, subdivision 1; 354.35; 354.42, subdivision 5; 354.44, subdivision 2; 354.45; 354.48, subdivision 3; 354.532, subdivisions 1 and 2; 354.55, subdivisions 11, 12, and 13; 354.58; 354.62, subdivision 5; 354.63, subdivision 2;

354A.011, subdivision 17, and by adding a subdivision; 354A.021, by adding a subdivision; 354A.32; 354A.41, subdivision 2; 356.20, subdivisions 2, 3, and 4; 356.215; 356.216; 356.22, subdivision 2; 356.23; 356.41; 356.451, subdivision 1; 422A.01, subdivisions 6, 7, and 10; 422A.04, subdivisions 2 and 3; 422A.06, subdivisions 2, 5, 7, and 8; 422A.101; 422A.15, subdivisions 2 and 3; 422A.16, subdivisions 2, 3a, and 10; 422A.17; 422A.23, subdivisions 6 and 7; 490.121, subdivision 20; and 490.124, subdivision 11; proposing coding for new law in Minnesota Statutes, chapter 352; repealing Minnesota Statutes 1986, section 352B.26, subdivision 2.

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

Page 2, line 35, strike "preceding"

Page 3, line 1, strike "For funds"

Page 3, strike lines 2 and 3

Page 3, line 4, before "year" insert "plan"

Page 3, line 5, strike "1988" and insert "1987"

Page 3, line 34, strike "date" and delete "on" and insert "*last business day of the month in*"

Page 4, line 12, after "PLANS" insert " ; *TRANSFER OR REQUIRED RESERVES*"

Page 4, line 13, before "Any" insert "(a)"

Page 4, line 15, strike "commencement of a" and insert "*last business day of the month in which the*"

Page 4, line 16, after "fund" insert "begins"

Page 4, line 23, after the period, insert:

"(b) If the exact amount of the actuarially determined required reserves is not readily calculable as of the date of the commencement of a benefit payment, the initial transfer must be based on the best estimate by the executive director of the retirement fund involved and shall be made on a timely basis. Any necessary adjustments based on specific calculations of actuarially determined required reserves must be made in later transfers. If a best estimate initial transfer is insufficient, the later transfer from the retirement fund must include interest on the amount of the required reserve insufficiency at the greater of the following rates:

(1) the average short-term investment return rate earned by the state board over the 30-day period ending with the last business day of the month before the month in which the later adjustment transfer is made; or

(2) the preretirement interest assumption for the retirement fund as specified in section 356.215, subdivision 4d, stated as a monthly rate.

Interest on the amount of a required reserve insufficiency payable by a retirement fund shall be compounded on a monthly basis. No interest shall be payable from the postretirement investment fund in the event of a required reserve oversufficiency.

(c)"

Page 5, line 10, delete "or under a procedure specified by"

Page 5, line 21, delete "*or the participating*"

Page 5, line 22, delete the new language

Page 6, line 9, delete "*or the participating public pension plan or fund,*"

Page 6, line 10, delete "*whichever is applicable*"

Page 6, line 11, delete "*or under a procedure specified by*"

Page 6, line 17, strike "100"

Page 6, line 18, strike "percent of"

Page 7, after line 11, insert:

"(e) A retirement annuity payable in the event of retirement before becoming eligible for social security benefits as provided in sections 352.116, subdivision 3; 353.29, subdivision 6; or 354.35 must be treated as the sum of a period certain retirement annuity and a life retirement annuity for the purposes of any postretirement adjustment. The period certain retirement annuity plus the life retirement annuity shall be the annuity amount payable until age 62 or 65, whichever applies. A postretirement adjustment granted on the period certain retirement annuity must terminate when the period certain retirement annuity terminates."

Page 17, line 10, strike ", and"

Page 17, line 11, strike "may deposit" and insert "by depositing"

Page 17, line 18, after "to" insert "the"

Page 18, line 17, delete "trustees" and insert "directors"

Page 21, line 18, before the period, insert "*or establish an optional annuity which takes the form of a joint and survivor annuity providing that, if after the joint and survivor annuity becomes payable, the person with the designated remainder interest in the annuity dies before the former member, the annuity amount must be reinstated to a normal single life annuity amount as of the first day of the month after the day the person dies. In addition, the board may also establish an optional annuity that takes the form of an annuity calculated on the basis of the age of the retired employee at retirement and payable for the period before the retired employee becomes eligible for social security old age retirement benefits in a greater amount than the amount of the annuity calculated under subdivision 2 on the basis of the age of the retired employee at retirement but equal so far as possible to the social security old age retirement benefit and the adjusted retirement annuity amount payable immediately after the retired employee becomes eligible for social security old age retirement benefits and payable for the period after the retired employee becomes eligible for social security old age retirement benefits in an amount less than the amount of the annuity calculated under subdivisions 2 and 3. The social security leveling option may be calculated based on broad average social security old age retirement benefits*"

Page 22, line 13, strike "date" and delete "of retirement" and insert "*last business day of the month in which the retirement annuity or disability benefit begins*"

Page 27, line 5, before "in" insert "*as of the last business day of the month in which the retirement annuity begins*"

Page 30, line 24, strike "date of retirement" and insert "*last business*"

day of the month in which the retirement annuity begins"

Page 31, line 18, after the period, insert "*The social security leveling option may be calculated based on broad average social security old age retirement benefits.*"

Page 35, line 28, delete everything after "*member*" and insert "*attains the age of 65 years*"

Page 35, line 29, delete "*retirement benefits*"

Page 36, line 1, after the period, insert "*The social security leveling option may be calculated based on broad average social security old age retirement benefits.*"

Page 36, line 18, after "*liability*" insert "*computed under the entry age actuarial cost method and*"

Page 38, line 27, after "*deductions*" insert "*and interest accrued to the date of retirement*"

Page 42, line 29, after "*teaching*" insert "*service*"

Page 42, line 35, delete "*retired*" and insert "*retires*"

Page 44, line 9, delete "*in effect on July 1, 1969*"

Page 44, line 25, reinstate the stricken language

Page 44, line 26, reinstate the stricken language and delete the new language

Page 44, lines 27 and 28, delete the new language

Page 45, line 13, strike "*an*"

Page 45, line 14, before "*interest*" insert "*the applicable postretirement*" and strike "*of five percent*" and insert "*specified in section 356.215*"

Page 46, line 24, before "*354.44*" insert "*354.35,*"

Page 47, line 11, strike "*date of retirement*" and insert "*last business day of the month in which the retirement annuity begins*"

Page 49, after line 21, insert:

"Sec. 50. Minnesota Statutes 1986, section 354A.33, is amended to read:

354A.33 [SOCIAL SECURITY LEVELING ADJUSTMENT OPTION.]

Any coordinated member who retires prior to the time the member becomes eligible for social security old age retirement benefits shall be entitled to elect to receive a social security leveling adjustment optional annuity from the teachers retirement fund association. The social security leveling adjustment optional annuity shall be established by the board of the teachers retirement fund association. It shall take the form of an annuity payable for the period prior to the member's becoming eligible for social security old age retirement benefits in an amount greater than the amount of the member's annuity calculated pursuant to section 354A.31 on the basis of the age of the member at retirement but equal insofar as possible to the social security old age retirement benefit and the adjusted retirement annuity amounts payable immediately subsequent to becoming eligible for social security old age retirement benefits in an amount less than the amount of the member's annuity calculated pursuant to section 354A.31 on the

basis of the age of the member at retirement. The optional form shall be the actuarial equivalent to the normal forms provided in section 354A.31. In establishing the optional form, the board shall obtain the written recommendation of ~~an approved~~ *the commission-retained* actuary and the recommendation shall be a part of the permanent records of the board."

Page 52, line 18, strike "and" and insert "*cash*" and after "equivalents" insert "*and short-term securities*"

Page 52, after line 21, insert:

"Equity in the Minnesota postretirement investment fund"

Page 53, line 11, before "Annuity" insert "*Retirement*"

Page 53, after line 11, insert:

"Disability benefit payments"

Page 53, line 26, strike "annuities" and insert "*benefits*"

Page 53, line 27, strike "spouses' annuities" and insert "*spouse and child benefits*"

Page 53, strike line 28

Page 53, line 33, strike "benefits" and insert "*annuities*"

Page 54, line 17, strike "benefit payments," and insert "*the payment of*"

Page 54, line 18, strike the first "benefits" and insert "*annuities*"

Page 55, line 19, strike ", and" and delete "*to determine*" and strike the second "the"

Page 55, line 20, strike "payment necessary to prevent any increase in any"

Page 55, line 21, strike the old language and delete the new language

Page 55, line 22, delete the new language

Page 57, line 22, strike "sixth" and insert "*eleventh*"

Page 60, lines 6 and 7, after "unfunded" insert "*actuarial*"

Page 60, line 9, strike "be" and insert "*include*"

Page 60, line 10, strike "organized in" and strike "manner"

Page 60, line 12, strike "and" and insert "*cash*" and after "equivalents" insert "*and short-term securities*"

Page 60, after line 15, insert:

"Equity in the Minnesota postretirement investment fund"

Page 60, line 25, after "Actuarial" insert "*present*" and after "of" insert "*credited projected*"

Page 60, line 29, strike "annuities" and insert "*benefits*"

Page 60, line 30, strike "spouses' annuities" and insert "*spouse and child benefits*"

Page 60, strike line 31

Page 61, lines 13 and 16, before "liability" insert "*actuarial*"

Page 65, line 19, strike "be submitted in" and insert "contain"

Page 65, line 20, strike "form" and insert "information"

Page 65, strike line 22

Page 65, line 23, strike "Payroll"

Page 65, line 36, strike "Annual"

Page 66, line 1, strike "Annuity" and delete "or"

Page 66, line 2, strike "Benefit"

Page 66, line 14, strike "Disabled annuitants" and insert "*Disability benefit recipients*"

Page 66, line 15, strike "annuitants" and insert "*benefit recipients*"

Page 66, line 16, strike "children annuitants" and insert "*child benefit recipients*"

Page 66, line 27, strike "which substantiates" and insert "*of the experience of the fund or association and a comparison of the experience with*"

Page 66, line 30, strike the colon

Page 66, strike lines 31 to 34

Page 66, line 35, strike "(b) Separately" and delete "*concerning*" and strike "new entrants for each"

Page 66, line 36, delete the new language

Page 67, line 1, delete the new language and strike the period

Page 67, line 2, strike "(2)"

Page 67, line 3, strike the semicolon

Page 67, strike line 4

Page 67, line 5, strike "date of the experience study"

Page 67, line 6, strike "(b) Separately" and delete "*concerning*" and strike "new retirements for each"

Page 67, line 7, delete the new language

Page 67, line 8, delete the new language and strike the period

Page 67, line 18, before the period, insert "*and the standards for actuarial work adopted by the legislative commission on pensions and retirement*"

Page 67, after line 18, insert:

"Subd. 7. [ESTABLISHMENT OF ACTUARIAL ASSUMPTIONS.] Actuarial assumptions used for actuarial valuations under this section that are other than those set forth in this section may be changed only with the approval of the legislative commission on pensions and retirement. A change in the applicable actuarial assumptions may be proposed by the governing board of the applicable pension fund or relief association, by the actuary retained by the legislative commission on pensions and retirement, by the actuarial advisor retained by a pension fund governed by chapter 352, 353, 354, or 354A, or by the actuary retained by a local police or fire fighters relief association governed by sections 69.77 or 69.771 to 69.776."

Page 77, line 30, before the period, insert "*as of the last business day of the month in which the retirement allowance begins*"

Page 77, line 33, after the period, insert "*A required reserve calculation for the retirement benefit fund must be made by the actuary retained by the legislative commission on pensions and retirement and must be certified to the retirement board by the commission-retained actuary.*"

Page 91, line 4, delete "1986" and insert "1987"

Page 91, after line 5, insert:

"Sec. 82. [TEMPORARY PROVISION.]

The provisions of sections 11, 12, 14 to 16, 23, 25, 28 to 30, 33, 35 to 38, 40, 44, 46, 47, 49, 61, 62, 65, 69, 71 to 74, and 78 to 80 may not be construed to require any immediate change in current actuarial assumptions, optional annuity forms, optional annuity factors, and early retirement reduction factors and shall only apply to any changes in these items after the effective date of this section and may not be construed to require any change without a significant deviation from actual experience."

Page 91, line 10, delete "*This act is*" and insert "*Sections 1 to 19 and 21 to 83 are*" and after the period, insert "*Section 20 is effective as soon as is practicable following final enactment.*"

Renumber the sections in sequence

Amend the title as follows:

Page 1, line 31, after "354A.32;" insert "354A.33;"

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

Mr. Chmielewski from the Committee on Employment, to which was referred

H.F. No. 1073: A bill for an act relating to occupations and professions; providing advertising restrictions for plumbers; imposing penalties; amending Minnesota Statutes, section 326F75.

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

Mr. Chmielewski from the Committee on Employment, to which was referred

H.F. No. 946: A bill for an act relating to employment; prohibiting residency requirements for employees; proposing coding for new law in Minnesota Statutes, chapter 181.

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

Mr. Chmielewski from the Committee on Employment, to which was referred

S.F. No. 176: A bill for an act relating to labor; prohibiting the charging of a fee in connection with a job application; providing penalties; proposing coding for new law in Minnesota Statutes, chapter 181.

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

Delete everything after the enacting clause and insert:

"Section 1. [181.93] [FEE FOR JOB APPLICATIONS PROHIBITED.]

A fee may not be charged any individual to make an application for employment. A person who is found to have violated this section is subject to the penalties and remedies, including a private right of action to recover damages, as provided in section 8.31."

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

Mr. Willet from the Committee on Environment and Natural Resources, to which was referred

H.F. No. 340: A bill for an act relating to natural resources; allowing elk to be bred on game and fur farms; amending Minnesota Statutes 1986, section 97A.105, subdivision 1.

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

Mr. Willet from the Committee on Environment and Natural Resources, to which was referred

H.F. No. 653: A bill for an act relating to wild animals; use of lights in taking or in tending traps; length of otter season; setting traps near water; amending Minnesota Statutes 1986, sections 97B.081; 97B.921; 97B.931; and 97B.945.

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

Mr. Willet from the Committee on Environment and Natural Resources, to which was referred

H.F. No. 505: A bill for an act relating to state lands; authorizing conveyance of certain state easement.

Reports the same back with the recommendation that the bill do pass and be placed on the Consent Calendar. Report adopted.

Mr. Willet from the Committee on Environment and Natural Resources, to which was referred

H.F. No. 102: A bill for an act relating to game and fish; use of mechanical release bows during archery seasons; amending Minnesota Statutes 1986, section 97B.035, subdivision 1.

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 1986, section 97B.035, subdivision 1, is amended to read:

Subdivision 1. [HUNTING WITH BOWS RELEASED BY MECHAN-

ICAL DEVICES.] (a) A person may not hunt with a bow drawn, held, or released by a mechanical device, except with a disabled hunter permit issued under section 97B.315 or as provided in paragraph (b).

(b) A person may use a mechanical device attached to the bowstring if the person's own strength draws, holds, and releases the bowstring."

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

Mr. Willet from the Committee on Environment and Natural Resources, to which was referred

S.F. No. 879: A bill for an act relating to natural resources; providing for the deposit of receipts from private forest management services into the forest management fund; appropriating money; amending Minnesota Statutes 1986, sections 88.79, subdivision 2; and 89.04.

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 1986, section 88.79, subdivision 2, is amended to read:

Subd. 2. [CHARGE FOR SERVICE; RECEIPTS TO ~~GENERAL FOREST MANAGEMENT FUND.~~] The commissioner of natural resources may charge the owner receiving such services such sums as the commissioner shall determine to be fair and reasonable. The receipts from such services shall be ~~deposited in~~ credited to the ~~general forest management fund.~~

Sec. 2. Minnesota Statutes 1986, section 89.04, is amended to read:

89.04 [FOREST MANAGEMENT FUND.]

Subdivision 1. [FUND ESTABLISHED; SOURCES.] The forest management fund is created as an account in the state treasury and may be spent only for the purposes provided in subdivision 2. The following revenue shall be deposited in the forest management fund:

(a) (1) money transferred from the state forest fund as provided in section 89.036;

(b) (2) money transferred from the state forest suspense account as provided in section 16A.125, subdivision 5, which may be appropriated to implement the state forest resource management policy and plan only on state forest trust fund lands as defined in section 16A.125, subdivision 5;

(c) (3) money from the sale of tree planting stock as provided in section 89.37, subdivision 4; and

(d) money from forest management services provided under section 88.79; and

(e) (5) interest accruing from investment of the fund.

Subd. 2. [PURPOSES OF FUND.] Subject to appropriation by the legislature, money in the forest management fund may be spent by the department of natural resources in accordance with the forest resource management policy and plan for any of the following purposes:

(a) (1) reforestation consistent with the state reforestation policy and

forest resource management plan;

(b) (2) forest road improvements consistent with the state forest road policy and forest resource management plan;

(c) (3) equipment and training needed for the prevention and suppression of forest fires;

(d) (4) forest pest prevention and treatment; and

(5) forest management services authorized by section 88.79.

Sec. 3. [APPROPRIATION.]

\$_____ is appropriated from money deposited in the forest management fund pursuant to section 89.04, subdivision 1, clause (4), to the commissioner of natural resources for private forest management services authorized under section 88.79.

Sec. 4. [EFFECTIVE DATE.]

This act is effective July 1, 1987."

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 referred

Senate Concurrent Resolution No. 7: A Senate concurrent resolution proclaiming 1987 as Minnesota Veterans Home Centennial Year.

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

Mr. Moe, R.D. moved that Senate Concurrent Resolution No. 7 be laid on the table. 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. 898: A bill for an act relating to economic development; creating the rural initiatives program; providing for a mineral development program; creating the greater Minnesota corporation and providing for its powers and duties; creating the rural initiatives revolving funds program; providing for grants to displaced workers; extending the interest rate buy-down programs; providing mediation services for rural small businesses; providing for rural telecommunications grants; appropriating money; amending Minnesota Statutes 1986, sections 256D.051, subdivision 4; 583.22, subdivision 2, and by adding a subdivision; 583.24, subdivision 2; Laws 1986, chapter 398, article 23, section 1, subdivisions 5 and 6; proposing coding for new law in Minnesota Statutes, chapters 84; 129B; and 268; proposing coding for new law as Minnesota Statutes, chapter 116N.

Reports the same back with the recommendation that the report from the Committee on Economic Development and Housing, shown in the Journal for April 9, 1987, be amended to read:

"the bill be amended and when so amended the bill do pass and be re-referred to the Committee on Agriculture". Amendments adopted. 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. 1203: A bill for an act relating to state government; reorganizing the department of agriculture, the department of energy and economic development, and the department of public service, and providing for the powers and duties of the three departments; changing the name of the department of energy and economic development to the department of trade and economic development; designating the department of jobs and training as the administrative agency for certain juvenile justice and delinquency prevention purposes; providing grants for youth intervention programs; transforming the Minnesota world trade center board into a public corporation; changing the membership of its governing board; establishing the world trade center institute as a joint venture of the corporation and the Minnesota trade office; authorizing the corporation and the world trade center office to contract for certain services and programs; transferring assets and liabilities of the world trade center board to the corporation; appropriating money; amending Minnesota Statutes 1986, sections 15.057; 17.03, subdivision 1; 18.023, subdivision 11; 18.024, subdivision 1; 43A.08, subdivision 1; 44A.01; 44A.02; 44A.031; 44A.08; 104.35, subdivisions 2 and 3; 115A.12, subdivision 2; 116C.03, subdivision 2; 116J.01; 116J.03; 116J.58, subdivision 2; 116J.60; and 116J.63, subdivision 2; proposing coding for new law in Minnesota Statutes, chapters 17; 44A; 116J; and 268; proposing coding for new law as Minnesota Statutes, chapter 216C; repealing Minnesota Statutes 1986, sections 4.09; 17.03, subdivision 5; 44A.03; 44A.04; 44A.05; 44A.06; 44A.07; 116J.404; and 116J.405.

Reports the same back with the recommendation that the report from the Committee on Governmental Operations, shown in the Journal for April 13, 1987, be amended to read:

"the bill be amended and when so amended the bill do pass and be referred to the Committee on Agriculture". Amendments adopted. 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. 11: A bill for an act relating to local government; permitting the establishment of a fire protection district for the city of Moose Lake and surrounding territory.

Reports the same back with the recommendation that the report from the Committee on Local and Urban Government, shown in the Journal for April 8, 1987, be amended to read:

"the bill be amended and when so amended the bill do pass and be referred to the Committee on Taxes and Tax Laws". Amendments adopted. 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. 929: A bill for an act relating to education; adding post-secondary vocational technical representation to UFARS and ESV computer councils;

authorizing certain state board of vocational technical education powers; changing certain state director duties; clarifying school days; amending Minnesota Statutes 1986, sections 121.901, subdivision 1; 121.934, subdivisions 1 and 2; 123.37, subdivision 1a; 136C.04, subdivision 12, and by adding a subdivision; 136C.13, by adding a subdivision; 136C.15; 136C.29, subdivision 5; and 136C.35; repealing Minnesota Statutes 1986, section 136C.32.

Reports the same back with the recommendation that the report from the Committee on Education, shown in the Journal for April 8, 1987, be adopted; that committee recommendation being:

"the bill be amended and when so amended the bill do pass". Amendments adopted. Report adopted.

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

S.F. No. 1382: A bill for an act relating to elections; limiting campaign expenditures by congressional candidates who choose to receive a public subsidy for their campaigns; making related changes in the ethics in government act; imposing penalties; amending Minnesota Statutes 1986, sections 10A.01, subdivisions 7, 10, 10b, 15, and by adding subdivisions; 10A.25, subdivision 10, and by adding subdivisions; 10A.255; 10A.27, by adding a subdivision; 10A.275; 10A.28; 10A.30, subdivision 2; 10A.31, subdivisions 1, 2, 3, 5, 6, 7, 8, 9, 10, 11, and by adding subdivisions; 10A.33; 10A.335; and 290.06, subdivision 11; proposing coding for new law in Minnesota Statutes, chapter 10A; repealing Minnesota Statutes 1986, sections 10A.02, subdivision 11a; 10A.25, subdivision 7; 10A.27, subdivision 5; and 10A.32.

Reports the same back with the recommendation that the report from the Committee on Elections and Ethics, shown in the Journal for April 13, 1987, be amended to read:

"the bill do pass and be re-referred to the Committee on Taxes and Tax Laws". Report adopted.

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

S.F. No. 317: A bill for an act relating to retirement; police and salaried firefighters relief associations; authorizing the voluntary consolidation of local relief associations with the public employees police and fire fund; authorizing the individual election of applicable benefit coverage upon consolidation; amending Minnesota Statutes 1986, sections 353.01, subdivisions 2b, 10, and 16; 353.271; 353.64, subdivision 1; and 353.65, subdivision 1; proposing coding for new law in Minnesota Statutes, chapter 353; proposing coding for new law as Minnesota Statutes, chapters 353A and 353B.

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 1986, section 353.01, subdivision 2b, is amended to read:

Subd. 2b. [EXCLUDED EMPLOYEES.] The following persons are excluded from the meaning of "public employee":

(a) Persons employed for professional services where such service is incidental to regular professional duties.

(b) Election officers.

(c) Independent contractors and their employees.

(d) Patient and inmate help in governmental subdivision charitable, penal and correctional institutions.

(e) Members of boards, commissions, bands and others who serve the governmental subdivision intermittently.

(f) Employees who hold positions of an essentially temporary or seasonal character, provided such employment does not continue for a period in excess of 120 working days in any calendar year. Immediately following the expiration of such 120 working days if such employees continue in public service and earn in excess of \$325 in any one calendar month, the department heads must then report all such employees for membership and must cause employee contributions to be made on behalf of such employees in accordance with section 353.27, subdivision 4, and they shall remain members until termination of public service.

(g) Part-time employees who receive monthly compensation not exceeding \$325, and part-time employees and elected officials whose annual compensation is stipulated in advance to be not more than \$3,900 per year, except that members shall continue their membership until termination of public service.

(h) Persons who first occupy an elected office after March 1, 1978, the compensation for which does not exceed \$325 per month.

(i) Emergency employees who are employed by reason of work caused by fire, flood, storm or similar disaster.

(j) Employees who by virtue of their employment as an officer or employee of a governmental subdivision are required by law to be a member of and to contribute to any other pension, relief or retirement fund established for the benefit of officers and employees of a governmental subdivision, except the state employees retirement fund, the teachers retirement fund, the state patrol retirement fund, the Duluth teachers retirement fund association, the Minneapolis teachers retirement fund association, the St. Paul teachers retirement fund association, the Minneapolis employees retirement fund, the Minnesota state retirement system correctional officers retirement plan or any police or firefighters relief association governed by section 69.77 which has not consolidated with the public employees police and fire fund and for which the employee has not elected coverage by the public employees police and fire fund benefit plan as provided in sections 8 to 17, other than as an act of the legislature has specifically enabled participation by employees of a designated governmental subdivision in a plan supplemental to the public employees retirement association; ~~provided that~~. This clause shall not prevent a person from being a member of and contributing to the public employees retirement association and also belonging to or contributing to another public pension fund for other service occurring during the same period of time.

(k) Police matrons employed in a police department of any city who are

transferred to the jurisdiction of a joint city and county detention and corrections authority.

(l) Chaplains and nuns who have taken a vow of poverty as members of a religious order.

(m) Full-time students who are enrolled and are regularly attending classes at an accredited school, college or university; provided, no person employed full time by a governmental subdivision shall be exempt under this paragraph.

(n) Resident physicians, medical interns and pharmacist interns who are serving in public hospitals.

(o) Appointed or elected officers, paid entirely on a fee basis, and who were not members on June 30, 1971.

(p) Nothing in Laws 1973, chapter 753 shall be interpreted to impair or revoke any option exercised under Laws 1963, chapter 793.

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

(r) Town, city or county assessors elected or appointed pursuant to chapter 273 who do not receive compensation in excess of \$325 per month from any one employing governmental subdivision or who are employed pursuant to an employment contract which sets forth the total compensation to be paid and the length of service, not to exceed three months in duration, required for the performance of the contract and which was entered into in advance of the commencement of employment.

(s) ~~A person~~ Persons holding a part time adult supplementary vocational technical school license who ~~renders~~ render part time teaching service in a vocational technical school if (1) the service is incidental to the person's regular nonteaching occupation; and (2) the applicable vocational technical school stipulates annually in advance that the part time teaching service will not exceed 300 hours in a fiscal year; and (3) the part time teaching service actually does not exceed 300 hours in a fiscal year.

(t) ~~A person~~ Persons exempt from licensure pursuant to section 125.031.

Sec. 2. Minnesota Statutes 1986, section 353.01, subdivision 10, is amended to read:

Subd. 10. [SALARY.] "Salary" means the periodical compensation of any public employee, before deductions for deferred compensation or supplemental retirement plans, and also means "wages" and includes net income from fees. Fees paid to district court reporters shall not be considered

a salary. Lump sum annual leave payments and severance payments shall not be deemed to be salary. Prior to the time that all sick leave has been used, amounts paid to an employee pursuant to a disability insurance policy or program where the employer paid the premiums shall be considered salary, and after all sick leave has been used, the payment shall not be considered salary. Workers' compensation payments shall not be considered salary. *For any public employee who has prior service covered by a local police or firefighters relief association which has consolidated with the public employees police and fire fund and who has elected coverage by the public employees police and fire fund benefit plan as provided in section 15 following the consolidation, the term means the rate of salary upon which member contributions to the special fund of the relief association were made prior to the effective date of the consolidation as specified in the applicable general law, special law, and bylaw provisions governing the relief association as of the date of the initiation of the consolidation procedure and the actual periodical compensation of the public employee after the effective date of the consolidation.*

Sec. 3. Minnesota Statutes 1986, section 353.01, subdivision 16, is amended to read:

Subd. 16. [ALLOWABLE SERVICE.] "Allowable service" means:

(1) Service during years of actual membership in the course of which employee contributions were currently made; periods covered by payments in lieu of salary deductions made as provided in section 353.35, and service in years during which the public employee was not a member but for which the member later elected, while a member, to obtain credit by making payments to the fund as permitted by any law then in effect.

(2) Any period of authorized leave of absence with pay from which deductions for employee contributions are made, deposited, and credited to the fund.

(3) Any period of authorized leave of absence without pay which does not exceed one year, and during or for which a member obtained credit by payments to the fund made in lieu of salary deductions, provided that such payments are made in an amount or amounts based on the member's average salary on which deductions were paid (a) for the last six months of public service, or (b) that portion of the last six months while the member was in public service, to apply to the period in either case immediately preceding commencement of such leave of absence; provided, however, that if the employee elects to pay employee contributions for the period of any leave of absence without pay, or for any portion thereof, the employee shall also, as a condition to the exercise of such election, pay to the fund an amount equivalent to both the required employer and additional employer contributions therefor, such payment to be made currently or within one year from the date the leave of absence terminates, unless the employer by appropriate action of its governing body and made a part of its official records, prior to the date of the first payment of such employee contribution, certifies to the association in writing that it will cause to be paid such employer and additional employer contributions from the proceeds of a tax levy made pursuant to section 353.28. Payments under this clause shall include interest at the rate of six percent per annum from the date of the termination of the leave of absence to the date payment is made.

(4) Any period during which a member is on an authorized sick leave of absence, without pay limited to one year, or an authorized temporary

layoff.

(5) Any period during which a member is on an authorized leave of absence to enter military service, provided that the member returns to public service upon discharge from military service pursuant to section 192.262, and pays into the fund employee contributions based upon the employee's salary at the date of return from military service. After June 30, 1983 payment must be made within five years of the date of discharge from the military service. The amount of these contributions shall be in accord with the contribution rates and salary limitations, if any, in effect during such leave, plus interest thereon at six percent per annum compounded annually from the date of return to public service to the date payment is made. In such cases the matching employer contribution and additional employer contribution provided in section 353.27, subdivisions 3 and 3a, shall be paid by the department employing such member upon return to public service and the governmental subdivision involved is hereby authorized to appropriate money therefor. Such member shall not receive credit for any voluntary extension of military service at the instance of the member beyond the initial period of enlistment, induction or call to active duty.

(6) For calculating benefits under sections 353.30, 353.31, 353.32, and 353.33 for state officers and employees displaced by the community corrections act, Minnesota Statutes 1984, chapter 401, and transferred into county service under Minnesota Statutes 1984, section 401.04, allowable service means combined years of allowable service as defined in Minnesota Statutes 1984, section 352.01, subdivision 11, and Minnesota Statutes 1984, section 353.01, subdivision 16, paragraphs (1) to (5).

(7) For any public employee who has prior service covered by a local police or firefighters relief association which has consolidated with the public employees police and fire fund, and who has elected coverage by the public employees police and fire fund benefit plan as provided in section 15 following the consolidation, any period of service credited by the local police or firefighters relief association as of the effective date of the consolidation based on the applicable general law, special law, and bylaw provisions governing the relief association as of the date of the initiation of the consolidation procedure.

Sec. 4. Minnesota Statutes 1986, section 353.271, is amended to read:

353.271 [PARTICIPATION IN MINNESOTA POSTRETIREMENT INVESTMENT FUND.]

Subdivision 1. [AUTHORIZATION.] The public employees retirement association, including the *public employees police and fire fund but excluding the various local relief association consolidation accounts*, is hereby authorized to participate in the Minnesota postretirement investment fund. There shall be one general participation in the Minnesota postretirement investment fund for all purposes by the public employees retirement ~~association~~ *fund and one general participation in the Minnesota postretirement investment fund for all purposes by the public employees police and fire fund.*

Subd. 2. [VALUATION OF ASSETS; ADJUSTMENT OF BENEFITS.]

(1) ~~For members retiring,~~ The required reserves for retirement annuities payable as provided in this chapter other than those payable from the *various local relief association consolidation accounts*, as determined in accordance with the appropriate mortality table adopted by the board of

trustees based on the experience of the fund as recommended by the actuary retained by the legislative commission on pensions and retirement, and using the postretirement interest assumption specified in section 356.215, subdivision 4d, shall be transferred to the Minnesota postretirement investment fund as of the date of retirement.

(2) Annuity payments *other than those payable from the various local relief association consolidation accounts* shall be adjusted in accordance with the provisions of section 11A.18.

(3) Notwithstanding section 356.18, increases in payments pursuant to this section *or from the various local relief association consolidation accounts, if applicable,* will be made automatically unless the intended recipient files written notice with the public employees retirement association requesting that the increase shall not be made.

Sec. 5. Minnesota Statutes 1986, section 353.64, subdivision 1, is amended to read:

Subdivision 1. [POLICE AND FIRE FUND MEMBERSHIP.] Any person who prior to July 1, 1961, was a member of the police and fire fund, by virtue of being a police officer or firefighter, shall as long as the person remains in either position, be deemed to continue membership in the fund. Any person who was employed by a governmental subdivision as a police officer and was a member of the police and fire fund on July 1, 1978 by virtue of being a police officer as defined by this section on that date shall be entitled, if employed by the same governmental subdivision in a position in the same department in which the person was employed on that date, to continue membership in the fund whether or not that person has the power of arrest by warrant after that date. *Any person who was employed by a governmental subdivision as a police officer or a firefighter, whichever applies, was an active member of the local police or salaried firefighters relief association located in that governmental subdivision by virtue of that employment as of the effective date of the consolidation as authorized by sections 8 to 17, and has elected coverage by the public employees police and fire fund benefit plan, shall be considered to be a member of the police and fire fund after that date if employed by the same governmental subdivision in a position in the same department in which the person was employed on that date.* Any other employee serving on a full-time basis as a police officer or firefighter on or after July 1, 1961, shall become a member of the public employees police and fire fund. Any employee serving on less than a full-time basis as a police officer shall become a member of the public employees police and fire fund only after a resolution is adopted by the governing body of the governmental subdivision employing the person declaring that the position which the person holds is that of a police officer. Any employee serving on less than a full-time basis as a firefighter, other than a volunteer firefighter, shall become a member of the public employees police and fire fund only after a resolution is adopted by the governing body of the governmental subdivision employing the person declaring that the position which the person holds is that of a firefighter. Any police officer or firefighter, *other than a volunteer firefighter, employed by a governmental subdivision who by virtue of that employment is required by law to be a member of and to contribute to any other pension, police or firefighter relief, or retirement fund established for the benefit of officers or employees of a governmental subdivision association governed by section 69.77 which has not consolidated with the public employees police and fire fund and for which the employee has*

not elected coverage by the public employees police and fire fund benefit plan as provided in sections 8 to 17 other than a volunteer firefighters relief association to which sections 69.771 to 69.776 apply shall not be a member of this fund.

Sec. 6. Minnesota Statutes 1986, section 353.65, subdivision 1, is amended to read:

Subdivision 1. There is a special fund known as the "public employees police and fire fund." In that fund there shall be deposited employee contributions, employer contributions and other amounts authorized by law including all employee and employer contributions of members transferred. *Within the public employees police and fire fund are accounts for each municipality known as the "local relief association consolidation accounts," which are governed by section 16.*

Sec. 7. [353.659] [LOCAL RELIEF ASSOCIATION CONSOLIDATION ACCOUNT BENEFITS.]

For any person who has prior service covered by a local police or firefighters relief association which has consolidated with the public employee police and fire fund and who has elected coverage by the public employees police and fire fund benefit plan as provided in section 15 following the consolidation, any retirement benefits payable shall be governed by the applicable provisions of this chapter. For any person who has prior service covered by a local police or firefighters relief association which has consolidated with the public employees police and fire fund and who has not elected coverage by the public employees police and fire fund benefit plan as provided in section 15 following the consolidation, any retirement benefits payable shall be governed by the provisions of sections 18 to 30 which apply to the relief association.

Sec. 8. [353A.01] [LEGISLATIVE INTENT AND POLICY.]

It is the intent and policy of the legislature in sections 8 to 17 to authorize, on a voluntary elective basis, any local police or salaried firefighters relief association and the respective municipality to effect the consolidation of the local relief association into the public employees police and fire fund established by chapter 353.

Sec. 9. [353A.02] [DEFINITIONS.]

Subdivision 1. [GENERALLY.] *When used in sections 8 to 17, each of the following words and phrases shall have the meaning ascribed to it in this section unless the context clearly indicates otherwise.*

Subd. 2. [ACTIONS PRELIMINARY.] *"Actions preliminary to consolidation finalization" means those actions undertaken by the commission, the state board, the public employee retirement association, the local police or firefighters relief association, and the municipality following initiation of the consolidation procedure as provided in section 11.*

Subd. 3. [ASSETS.] *"Assets" means the investment securities and other items of value held by the special fund of the relief association.*

Subd. 4. [BENEFICIARY.] *"Beneficiary" means the natural person designated by any active, deferred, or retired member of the fund or of the local relief association consolidation account of the fund, whichever applies, as the recipient of any remainder interest to the credit of the designating person under law upon the death of the designating person, in-*

cluding the natural person receiving or entitled to receive the remainder portion of any elected optional retirement annuity form or automatic survivor benefit portion of a service pension or disability benefit.

Subd. 5. [BENEFIT PLAN.] "Benefit plan" means that portion of a pension plan which deals specifically with the service pension or retirement annuity and retirement benefit coverage provided by the relief association or the fund, whichever applies, including, but not limited to, the types of coverage, the initial and continuing eligibility for and entitlement to service pensions or retirement annuities and retirement benefits, the amount of service pensions or retirement annuities and retirement benefits and the adjustment of service pensions or retirement annuities and retirement benefits.

Subd. 6. [BOARD OF TRUSTEES.] "Board of trustees" means the managing board of the local police or firefighters relief association.

Subd. 7. [CHIEF ADMINISTRATIVE OFFICER.] "Chief administrative officer" means the person who has primary responsibility for the execution of the administrative affairs of the municipality, in the case of a municipality, or of the relief association in the case of a local police or firefighters relief association, or the designee of that person.

Subd. 8. [COMMISSION.] "Commission" means the legislative commission on pensions and retirement established by section 3.85.

Subd. 9. [DEFERRED MEMBER.] "Deferred member" means a person who has credit for sufficient service in the relief association to gain entitlement to an eventual service pension but who has not yet applied for or started receipt of that service pension.

Subd. 10. [EFFECTIVE DATE OF THE CONSOLIDATION.] "Effective date of the consolidation" means the date on which the consolidation shall occur as determined under section 13.

Subd. 11. [EXISTING RELIEF ASSOCIATION BENEFIT PLAN.] "Existing relief association benefit plan" means the benefit plan of the relief association in effect on the day before the initiation of the consolidation procedure as provided in section 11.

Subd. 12. [FUND.] "Fund" means the public employees police and fire fund established by sections 353.63 to 353.68.

Subd. 13. [INAPPROPRIATE INVESTMENTS.] "Inappropriate investments" means any investment security or other asset held by the relief association at or after the initiation of the consolidation procedure which does not comply with any applicable investment guidelines or objectives which are established and published by the state board.

Subd. 14. [INELIGIBLE INVESTMENTS.] "Ineligible investments" means any investment security or other asset held by the relief association at or after the initiation of the consolidation procedure which does not comply with the applicable requirements or limitations of sections 11A.09, 11A.18, 11A.19, 11A.23, and 11A.24.

Subd. 15. [LOCAL POLICE OR FIREFIGHTERS RELIEF ASSOCIATION.] "Local police or firefighters relief association" means the Duluth firefighters relief association, the Duluth police relief association, the St. Paul fire department relief association, and the St. Paul police relief association, but does not mean the Bloomington fire department relief association or a relief association that is a member of the Minnesota police

pension council or the Minnesota professional firefighters pension council.

Subd. 16. [LOCAL RELIEF ASSOCIATION CONSOLIDATION ACCOUNTS.] *"Local relief association consolidation accounts" means the special accounts created within the fund by sections 6, and 16, subdivision 1.*

Subd. 17. [MAJORITY VOTE.] *"Majority vote" means:*

(1) for a local police or firefighters relief association, a number of votes of the membership of the relief association that equals or exceeds the percentage required by the bylaws of the relief association to approve the initiation of the consolidation of the relief association with the fund, or, if no minimum percentage is specified in the bylaws, a number of votes of the membership of the relief association that equals or exceeds 50 percent of the number of members voting; or

(2) for a relief association that is not a local police or firefighters relief association, a number of votes that equals or exceeds 50 percent of the membership of the relief association.

Subd. 18. [MEMBERSHIP OF THE RELIEF ASSOCIATION.] *"Membership of the relief association" means:*

(1) for purposes of section 11, subdivision 2, the active members of a local police or firefighters relief association or the active, deferred, and retired members and the survivors of active, deferred, and retired members of a relief association that is not a local police or firefighters relief association; or

(2) for purposes of section 11, subdivision 4, the active, deferred, and retired members and the survivors of active, deferred, and retired members of a local police or firefighters relief association or a relief association that is not a local police or firefighters relief association. For purposes of section 11, subdivision 4, an active, deferred, or retired member is entitled to one vote. The survivor or survivors of an active, deferred, or retired member is entitled to one vote. If there is more than one survivor, the vote must be cast by the eldest survivor if that person is of the age of majority or, if not, by the guardian of the eldest survivor. Volunteer firefighters or their survivors may not be included in determining the membership of a relief association.

Subd. 19. [MINIMUM REQUIRED PROPORTION OF RELIEF ASSOCIATION MEMBERSHIP.] *"Minimum required proportion of relief association membership" means the percentage of the membership of the relief association, less than a majority, that equals or exceeds the percentage required by the bylaws of the relief association to initiate the consolidation of the relief association with the fund or, if no minimum percentage is specified in the bylaws, ten percent of the active membership of a local police or firefighters relief association or 30 percent of the total membership of a relief association that is not a local police or firefighters relief association.*

Subd. 20. [MINNESOTA POSTRETIREMENT INVESTMENT FUND.] *"Minnesota postretirement investment fund" means the postretirement adjustment mechanism and investment fund established by section 11A.18.*

Subd. 21. [OTHER ITEMS OF VALUE.] *"Other items of value" means any real property, personal property, or interest in real or personal property not evidenced by or appropriately characterized as a security as that*

term is defined by section 524.1-201, clause (37).

Subd. 22. [PENSION PLAN.] "Pension plan" means the various aspects of the relationship between a municipality and its police officers or salaried firefighters, whichever applies, who are members of the local police or firefighters relief association regarding the retirement benefit coverage provided by the relief association.

Subd. 23. [POSTRETIREMENT ADJUSTMENT.] "Postretirement adjustment" means any periodic or regular procedure for modifying the amount of a retirement annuity, service pension, disability benefit, or survivor benefit after the start of that annuity, pension, or benefit, including but not limited to modifications of amounts from the Minnesota postretirement investment fund under section 11A.18, subdivision 9, or any benefit escalation or benefit amount modification based on changes in the salaries payable to active police officers or salaried firefighters or changes in a cost-of-living index as provided for in the existing relief association benefit plan.

Subd. 24. [PUBLIC EMPLOYEES POLICE AND FIRE FUND BENEFIT PLAN.] "Public employees police and fire fund benefit plan" means the provisions of sections 353.63 to 353.68, any general provisions of chapter 353 which may be applicable, any applicable provisions of chapter 11A or 356, any applicable provisions of any rules issued by the board of the public employees retirement association and any applicable amendments in those statutes or rules.

Subd. 25. [PUBLIC HEARING.] "Public hearing" means a meeting held by the board of trustees of the relief association or the governing body of the municipality in which the relief association is located, whichever applies, in a place and at a time accessible to members of the general public, which is reasonably calculated to allow for participation by all affected interests, for which proper notice has been given and at which the views of the general public may be heard.

Subd. 26. [REFERENDUM.] "Referendum" means a vote of the total membership of a relief association on the question of the consolidation of the relief association with the fund as provided in section 11 which shall occur upon the initiation of the consolidation and shall be conducted through the use of a secret, written ballot and in accordance with procedures established by the board of trustees of the relief association for the issuance and collection of absentee ballots and for contacting deferred members who reside outside the geographical boundaries of the municipality in which the relief association is located.

Subd. 27. [RELIEF ASSOCIATION.] "Relief association" means the local police or firefighters relief association for which consolidation procedures have been initiated.

Subd. 28. [SPECIAL BENEFIT COVERAGE.] "Special benefit coverage" means any benefit provided for in the articles of incorporation or bylaws of the local relief association which, in the judgment of the executive director of the public employees retirement association, is not of the type regularly provided by the public employees police and fire fund because it involves one or a combination of the following factors:

(a) the benefit is other than a service pension, a disability or superannuation benefit, or a survivor benefit;

(b) the payment of the benefit does not occur monthly and does not continue beyond one or a small number of payments; or

(c) the payment of amounts from the pension fund is not made to individual benefit recipients or former members.

Subd. 29. [STATE BOARD.] "State board" means the state board of investment operating under chapter 11A.

Subd. 30. [SURVIVOR.] "Survivor" means the person who has or the persons who have, as of the death of the active, deferred, or retired member of the relief association, the relationship to the member of the legally married spouse or the dependent minor child as defined or specified by the benefit plan of the relief association.

Sec. 10. [353A.03] [VOLUNTARY CONSOLIDATION OPTION.]

(a) Except as provided in paragraph (b), notwithstanding any provision of law to the contrary, any local police or firefighters relief association, as defined in section 9, subdivision 15, may consolidate with the public employees police and fire fund as provided in sections 8 to 17.

(b) A relief association with current assets as defined in section 356.215 in an amount that is less than the actuarially determined present value of future benefits for current benefit recipients, for deferred members and for active members who qualify for or who are within two years of qualifying for a service pension, under the benefit plan providing the largest present value, based on either age or service, may not consolidate with the public employees police and fire fund as provided in sections 8 to 17.

Sec. 11. [353A.04] [CONSOLIDATION PROCEDURE.]

Subdivision 1. [SOURCE OF CONSOLIDATION INITIATION.] The consolidation of a relief association may be initiated by the board of trustees of the relief association or by the minimum required proportion of the relief association membership.

Subd. 2. [INITIATION PROCEDURE.] To initiate the consolidation procedure, one of the following events shall occur:

(a) the board of trustees, following a public hearing on the issue, adopts by majority vote a resolution of the board recommending to the membership of the relief association and to the municipality that the relief association be consolidated into the fund and setting forth the procedure for a membership referendum as provided in subdivision 4; or

(b) the minimum required proportion of the relief association membership submits a signed petition to the board of trustees recommending to the board, the balance of the membership of the relief association and to the municipality that the relief association be consolidated into the fund. Upon receipt of the petition and authentication of the signatures contained in it, the board of trustees shall hold a public hearing on the issue and shall adopt a resolution setting forth its recommendation to the membership and to the municipality on the issue and setting forth the procedure for a membership referendum as provided in subdivision 4.

Subd. 3. [BOARD OF TRUSTEES RESPONSE.] In responding to a petition of the minimum required proportion of the relief association membership, the board of trustees shall hold a special meeting within one month of the receipt and authentication of the petition at which the public hearing shall be conducted. The resolution of the board of trustees setting

forth its recommendation and the membership referendum procedure shall be adopted either at that special meeting or at the regular scheduled meeting of the board of trustees next following the special meeting.

Subd. 4. [MEMBERSHIP REFERENDUM PROCEDURE.] *The resolution of the board of trustees setting forth the membership referendum procedure shall provide for a referendum by the membership of the relief association. The referendum must be conducted by a secret ballot in a manner agreeable to the chief administrative officer of the relief association and the representative of the municipality on the relief association board who is most senior in rank. The resolution must specify the language of the referendum question, the time and place for the referendum, the procedure for absentee referendum balloting, and the form and content of any informational or explanatory materials that may be distributed with the referendum ballot. Approval or disapproval of consolidation shall be determined by majority vote.*

Subd. 5. [APPROVAL TIME LIMITS.] *If the consolidation process is initiated by the board of trustees of the relief association or by the minimum required proportion of the relief association membership, the governing body of the municipality shall approve or disapprove the consolidation action by a resolution of the governing body of the municipality within four months of the receipt of the initiating action by the relief association.*

Subd. 6. [IMPACT OF DISAPPROVAL.] *If a consolidation action is disapproved by action of the governing body of the municipality or by majority referendum vote of the membership of the relief association, no consolidation action may be initiated until after January 1 of the year next following the date of disapproval.*

Subd. 7. [CERTIFICATION OF APPROVAL.] *If a consolidation action is approved, the chief administrative officer of the municipality shall notify the executive director of the public employees retirement association, the executive director of the state board, the executive director of the commission, the commissioner of finance, the secretary of state, and the state auditor of the approval. The notification to the state auditor shall also contain a certification by the chief administrative officer of the municipality and by the secretary of the relief association that there was compliance with the procedures set forth in this section in approving that consolidation action and shall include a copy of any relevant documentation.*

Subd. 8. [FINAL MUNICIPAL APPROVAL.] *If a consolidation action is approved, the remaining actions preliminary to the finalization of the consolidation provided for in section 12 shall take place and consolidation shall occur pending final approval of the consolidation by the governing body of the municipality. Final action on the question of the approval of the consolidation by the governing body of the municipality shall occur at a public hearing held for that purpose and shall occur within one month of the conclusion of the remaining actions preliminary to the finalization of the consolidation. If the governing body of the municipality upon its final action on the consolidation disapproves the consolidation, or the deadline for the municipality to take final action upon the question of consolidation expires, the approvals by the relief association and the municipality to initiate the consolidation shall no longer be effective.*

Subd. 9. [DIVISION OF SALARIED AND VOLUNTEER FIREFIGHTER RELIEF ASSOCIATION.] *If the relief association includes in its membership both volunteer firefighters and salaried firefighters, the board of*

trustees of the relief association shall, before the effective date of the consolidation, undertake the necessary steps to separate the volunteer firefighters portion of the relief association from the salaried firefighters portion of the relief association and to establish the volunteer firefighters portion of the relief association as a distinct relief association governed by chapter 424A. Any special fund assets of the original relief association shall be valued at their fair market value and divided between the new volunteer firefighters relief association and the existing relief association on the basis of their relative actuarial accrued liabilities as determined by an approved actuary as provided in section 356.215. The municipality shall adopt a resolution specifying how any fire state aid received by the municipality under sections 69.011 to 69.051 shall be allocated between the newly established volunteer firefighters relief association and the existing relief association or the fund, whichever applies, as of the date of allocation.

Sec. 12. [353A.05] [ACTIONS PRELIMINARY TO CONSOLIDATION FINALIZATION.]

Subdivision 1. [COMMISSION ACTIONS.] Upon initiation of consolidation as provided in section 11, the executive director of the commission shall direct the actuary retained by the commission to undertake the preparation of the actuarial calculations necessary to complete the consolidation.

These actuarial calculations shall include for each active member, each deferred former member, each retired member, and each current beneficiary the computation of the present value of future benefits, the future normal costs, if any, and the actuarial accrued liability on the basis of the existing relief association benefit plan and on the basis of the public employees police and fire fund benefit plan. These actuarial calculations shall also include for the total active, deferred, retired, and benefit recipient membership the sum of the present value of future benefits, the future normal costs, if any, and the actuarial accrued liability on the basis of the existing relief association benefit plan, on the basis of the public employees police and fire fund benefit plan and on the basis of the benefit plan which produced the largest present value of future benefits for each person. The actuarial calculations shall be prepared using the entry age actuarial cost method for all components of the benefit plan and using the actuarial assumptions applicable to the fund for the most recent actuarial valuation prepared under section 356.215, except that the actuarial calculations on the basis of the existing relief association benefit plan shall be prepared using an interest rate actuarial assumption during the postretirement period which is in the same amount as the interest rate actuarial assumption applicable to the preretirement period. The actuarial calculations shall include the computation of the present value of the initial postretirement adjustment anticipated by the executive director of the state board as payable after the effective date of the consolidation from the Minnesota postretirement investment fund under section 11A.18.

The chief administrative officer of the relief association shall, upon request, provide in a timely manner to the executive director of the commission and to the actuary retained by the commission the most current available information or documents, whichever applies, regarding the demographics of the active, deferred, retired, and benefit recipient membership of the relief association, the financial condition of the relief association and the existing benefit plan of the relief association.

Upon completion of the actuarial calculations required by this subdivision, the actuary retained by the commission shall issue a report in the form of an appropriate summary of the actuarial calculations and shall provide a copy of that report to the executive director of the commission, the executive director of the public employees retirement association, the chief administrative officer of the relief association, the chief administrative officer of the municipality in which the relief association is located, the state auditor, and the legislative auditor. For purposes of determining whether or not the relief association has authority to consolidate, the report shall include the total present value of future benefits for current benefit recipients, for deferred members and for active members who qualify for or who are within two years of qualifying for a service pension, under the benefit plan providing the largest present value, based on either age or service.

Subd. 2. [STATE BOARD ACTIONS.] Upon approval of consolidation by the membership as provided in section 11, the executive director of the state board shall review the existing investment portfolio of the relief association for compliance with the requirements and limitations set forth in sections 11A.14, 11A.18, 11A.23, and 11A.24 and for appropriateness for retention in the light of the established investment objectives of the state board. The executive director of the state board, using any reporting service retained by the state board, shall determine the approximate market value of the existing assets of the relief association upon the effective date of consolidation and the transfer of assets from the relief association to the individual relief association consolidation accounts at market value.

The state board may require that the relief association liquidate any investment security or other item of value which is determined to be ineligible or inappropriate for retention by the state board. The liquidation shall occur before the effective date of consolidation and transfer of assets.

If requested to do so by the chief administrative officer of the relief association or of the municipality, the state board shall provide advice on the means and procedures available to liquidate investment securities and other assets determined to be ineligible or inappropriate.

Subd. 3. [FUND ACTIONS.] Upon approval of consolidation by the membership as provided in section 11, the executive director of the public employees retirement association shall request from the relief association and the municipality the information necessary to allow the fund to complete the consolidation, which at a minimum shall include the information required to be provided to the executive director of the commission and to the actuary retained by the commission by subdivision 1. The chief administrative officer of the relief association and the chief administrative officer of the municipality shall provide the requested information in a timely manner. The data shall be reported on forms or in a manner prescribed by the executive director of the public employees retirement association. The data shall be current as of the date of the approval of the consolidation by the membership and shall thereafter include updated data on a monthly basis following the initial collection of data, also in the manner or on forms prescribed by the executive director of the public employees retirement association. The chief administrative officer of the municipality and the chief administrative officer of the relief association shall certify as to the accuracy of the data reported to the public employees retirement association, and the public employees retirement association may rely on that data without undertaking any affirmative duty to verify

the data.

Sec. 13. [353A.06] [FINALIZATION OF CONSOLIDATION.]

Upon the completion of the applicable actions preliminary to consolidation finalization under section 12, each entity shall report the result of those actions to the relief association and to the municipality. Upon final approval by the municipality as provided in section 11, subdivision 8, the consolidation of the relief association with the public employee police and fire fund shall be scheduled to occur. The consolidation shall be effective as of the date established for consolidation by the board of the public employees retirement association. The effect of the consolidation shall be as provided in sections 14 to 16.

Sec. 14. [353A.07] [EFFECT ON ADMINISTRATION.]

Subdivision 1. [TRANSFER OF ADMINISTRATION.] On the effective date of consolidation, the administration of the special fund and the benefit plan of the relief association is transferred to the executive director and the board of trustees of the public employees retirement association.

Subd. 2. [TRANSFER OF RECORDS.] On the effective date of consolidation, the chief administrative officer of the relief association shall transfer all records and documents relating to the special fund of the relief association to the fund. To the extent possible, original copies of all records and documents shall be transferred. For any records and documents which apply to both the general fund and the special fund of the relief association, the chief administrative officer may transfer a photostatic copy of the applicable original record or document if the copy is accompanied by a certification by the chief administrative officer that the copy is a true and exact copy of the original. Any photostatic copy of any document so certified may be treated by the fund for all purposes as an original copy.

Subd. 3. [TRANSFER OF ASSETS.] On the effective date of consolidation, the chief administrative officer of the relief association shall effect the transfer of the entire assets of the special fund of the relief association to the fund. The transfer may include any investment securities of the special fund which are not determined to be ineligible or inappropriate by the executive director of the state board under section 12, subdivision 2, at the market value of the investment security as of the effective date of the consolidation. The transfer shall include any accounts receivable determined by the executive director of the state board as capable of being collected. The transfer shall also include an amount, in cash, representing any remaining investment security or other asset of the special fund which was liquidated, after defraying any accounts payable.

As of the effective date of consolidation, subject to the authority of the state board, the board of trustees of the public employee retirement association shall have legal title to and management responsibility for any transferred assets as trustees for any person having a beneficial interest arising out of benefit coverage provided by the relief association. The fund shall be the successor in interest for all claims for and against the special fund of the relief association or the municipality with respect to the special fund of the relief association, except any claim against the relief association or the municipality or any person connected with the relief association or the municipality in a fiduciary capacity, based on any act or acts by that person which were not done in good faith and which constituted a breach of the obligation of the person as a fiduciary. As a successor in interest,

the fund may assert any applicable defense in any judicial proceeding which the board of the relief association or the municipality would have otherwise been entitled to assert.

Subd. 4. [TERMINATION OF SPECIAL FUND.] As of the effective date of consolidation and the transfer of administration, records, assets, and liabilities from the relief association to the separate consolidation fund, the special fund of the relief association shall cease to exist as a legal entity. If the relief association has a general fund as of the effective date of consolidation, the general fund may continue to exist as a legal entity at the discretion of the board of the relief association. If the relief association does not have a general fund as of the effective date of consolidation, the board of the relief association may establish a general fund, which may conduct business on behalf of the relief association as the board of the relief association may direct. Following consolidation, the general fund may retain the name of the relief association, shall be the only fund of the relief association and shall continue to be governed by any applicable general or special law provision other than any provisions governing the benefits previously payable from the special fund of the relief association. Any relief association continuing in the form of the general fund shall function as a fraternal organization.

The municipality shall maintain the service previously provided to assist the relief association through making the appropriate payroll deduction of relief association membership dues from relief association members.

Subd. 5. [COSTS OF CONSOLIDATION.] The reasonable and necessary costs arising from the actions of the commission, the state board, and the fund preliminary to consolidation as provided in section 12 shall be paid by the relief association from the special fund as those costs are incurred before the effective date of the consolidation and shall be considered to be authorized administrative expenses of the relief association for section 69.80. If the governing body of the municipality fails to grant final approval of the consolidation as provided in section 11, subdivision 8, the municipality shall reimburse the special fund of the relief association for any costs arising from the actions preliminary to consolidation which it has incurred. The reimbursement shall occur within 30 days of the date on which the municipality declined to grant final approval of the consolidation or the date on which the deadline for final approval by the municipality of the consolidation expired.

Subd. 6. [POSTCONSOLIDATION BYLAW AMENDMENTS.] Following the effective date of consolidation, if the relief association continues in the form of the general fund, the board of the relief association shall adopt the appropriate amendments to its bylaws and articles of incorporation to reflect its change in status and operation. The amendments shall be effective upon filing the applicable amendments with the executive director of the commission and with the state auditor and shall not require municipal ratification as provided in section 69.77, subdivision 2a.

Sec. 15. [353A.08] [EFFECT ON BENEFIT COVERAGE.]

Subdivision 1. [ELECTION OF COVERAGE BY CURRENT RETIREES.] Any person who is receiving a service pension, disability benefit, or survivorship benefit shall have the option to elect to have benefit coverage provided under the relevant provisions of the public employees police and fire fund benefit plan or to retain benefit coverage provided under the relief association benefit plan in effect on the effective date of the con-

solidation. The relevant provisions of the public employees police and fire fund benefit plan for the person electing that benefit coverage shall be limited to participation in the Minnesota postretirement investment fund for any future postretirement adjustments in the amount of the benefit or pension payable as of the effective date of the consolidation, the date as of which pension or benefit payments are to be paid and the termination of a survivor or disability benefit or suspension of a retirement annuity before the death of the person. The survivorship benefit payable on behalf of any service pension or disability benefit recipient who elects benefit coverage provided under the relevant provisions of the public employees police and fire fund benefit plan shall be calculated under the relief association benefit plan in effect on the effective date of the consolidation and shall be subject to participation in the Minnesota postretirement investment fund for any future postretirement adjustments in the amount of the survivorship benefit payable.

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

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

Subd. 2. [ELECTION OF COVERAGE BY CURRENT DEFERRED RETIREES.] Any person who has terminated active employment as a police officer or firefighter, whichever applies, with the municipality, has sufficient credit for service to entitle the person to an eventual service pension and has not taken a refund of accumulated member contributions, if applicable, shall have the option to elect to have benefit coverage provided under the relevant provisions of the public employees police and fire fund benefit plan or to retain benefit coverage provided by the relief association benefit plan in effect on the effective date of consolidation. The relevant provisions of the public employees police and fire fund benefit plan for the person electing that benefit coverage shall be the provisions specified in subdivision 1.

The election shall be made when the person files an application for receipt of the deferred service pension and shall accompany that application.

Subd. 3. [ELECTION OF COVERAGE BY ACTIVE MEMBERS.] Any person who is employed as a police officer or as a firefighter other than a volunteer firefighter, whichever applies, by the municipality and is an active member of the relief association shall have the option to elect to have benefit coverage provided under the relevant provisions of the public employees police and fire fund benefit plan or to retain benefit coverage provided by the relief association benefit plan in effect on the effective

date of consolidation. The relevant provisions of the public employee police and fire fund benefit plan for the person electing that benefit coverage shall be the relevant provisions of the public employee police and fire fund benefit plan applicable to retirement annuities, disability benefits, and survivor benefits, including participation in the Minnesota postretirement investment fund, but excluding any provisions governing the purchase of credit for prior service or making payments in lieu of member contribution deductions applicable to any period which occurred before the effective date of consolidation.

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

(a) on or before the date occurring 180 days after the effective date of consolidation;

(b) after the date on which the active member attains the age of 49 years and six months and before the date on which the active member attains the age of 50 years; or

(c) on the date on which the active member terminates active employment as a police officer or firefighter, whichever applies, with the municipality in which the local relief association subject to consolidation was located.

Subd. 4. [IRREVOCABLE ELECTION.] Any election made under this section shall be irrevocable once it has been filed. Each election shall be made on a form prescribed by the executive director of the public employees retirement association and shall be filed with the executive director. If the current retiree, current benefit recipient, current deferred retiree, or current active member has, as of the effective date of consolidation or the election of benefit coverage, whichever applies, a spouse or other person who has reached the age of majority who under the benefit plan of the relief association would be entitled to receive a survivor benefit upon the death of the person making the election, the election made as provided in this section shall not be considered valid without a statement signed by the potential survivor and accompanying the election form which indicates that the potential survivor has been informed of the election and understands the consequences of the election.

The election form, if validly executed and accompanied by any required statement or statements, shall be effective on the first day of the month next following its filing with the executive director of the public employees retirement association or the date of retirement, whichever is earlier. If the person making the election becomes disabled or dies before the effective date of the election, any disability or survivor benefits which are payable shall be governed by the existing benefit plan of the relief association.

If the person entitled to make the election elects to retain coverage by the benefit plan of the relief association or fails to make the election in a timely fashion, the person shall have future pension or benefit payments governed by the provisions of the existing benefit plan of the relief association in effect on the effective date of consolidation.

Subd. 5. [RETURNING DISABILITANTS; REEMPLOYED ANNUITANTS.] Any person who is receiving a disability benefit from a consolidating local relief association as of the effective date of the consolidation and who recovers sufficiently from that disability following the effective date of the consolidation to allow for a return to active employment as a

police officer or firefighter, whichever applies, with the municipality in which the consolidating relief association was located shall retain eligibility to the local relief association benefit plan only and shall not be entitled to elect the public employees police and fire fund benefit plan as an active member, even if the public employees police and fire fund benefit plan was elected as a benefit recipient.

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

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

Subd. 6. [SPECIAL BENEFIT PROVISIONS.] If the benefit plan of the relief association as of the date on which consolidation is initiated provides for special benefit coverage as specified in section 9, subdivision 28, any person who would have otherwise been entitled to that special benefit coverage shall retain entitlement upon consolidation to that special benefit coverage notwithstanding the election which the person makes regarding other aspects of the benefit coverage as provided in subdivision 1, 2, or 3. The special benefit coverage shall continue to be provided by the municipality and, if not provided through a contract with an insurance carrier which is authorized to do business in this state, shall be funded on an actuarial basis using the relevant provisions of section 69.77, with the establishment by the municipality of a special account within the general fund of the municipality for this special benefit coverage, to be managed by the chief administrative officer of the municipality, with disbursements limited to payments of the special benefit or benefits based on the relevant portion of the benefit plan of the relief association which existed as of the date on which consolidation is initiated.

No special account in the general fund of a municipality established to provide special preexisting benefit plan coverage as provided in this subdivision shall be deemed to be a supplemental pension plan under section 356.24 or a local governmental pension plan or fund under section 356.25.

Subd. 7. [COUNSELING.] The executive director of the public employees retirement association shall undertake all reasonable efforts to provide any necessary benefit counseling to persons who are entitled to make or who are affected by an election, if benefit counseling is requested by the person.

Sec. 16. [353A.09] [EFFECT ON CONTRIBUTIONS AND FUNDING.]

Subdivision 1. [ESTABLISHMENT OF SPECIAL LOCAL RELIEF ASSOCIATION ACCOUNTS.] The board of the public employees retirement association shall establish special accounts to be known as the local relief association consolidation accounts of the municipalities that consolidate with the fund. In that account shall be credited the assets of a consolidating

local relief association upon transfer, member contributions received after consolidation under subdivision 5, municipal contributions received after consolidation under subdivision 6, and a proportionate share of any investment income earned after consolidation by the public employees police and fire fund. From that account the transfer of any required reserves to the Minnesota postretirement investment fund on account of persons electing coverage by the public employees police and fire benefit plan under subdivision 2 and section 353.271, subdivision 2 shall be made, the pension and benefit amounts on account of persons electing coverage by the relief association benefit plan under section 15 shall be paid, the benefit amounts not payable from the Minnesota postretirement investment fund on account of persons electing coverage by the public employees police and fire benefit plan under section 15 shall be paid and any direct administrative expenses related to the special account and the proportional share of the general administrative expenses of the fund shall be paid.

Except as otherwise provided for in this section the liabilities and the assets of the local relief association consolidation accounts must be considered for all purposes to be separate from the balance of the public employees police and fire fund and shall be subject to separate accounting and separate actuarial valuation, reported as a separate exhibit in any annual financial report or actuarial valuation report of the fund, whichever applies. The executive director of the public employees retirement association shall maintain separate accounting records for each consolidating local relief association and its balance in the special local relief association account.

Subd. 2. [INITIAL ALLOCATION OF ASSETS UPON CONSOLIDATION.] As soon as is practicable following the effective date of consolidation, the executive director of the public employees retirement association shall transfer from the individual local relief association consolidation accounts to the Minnesota postretirement investment fund assets of that account equal to the required reserves for service pensions payable to persons electing coverage by the public employees police and fire fund benefit plan under section 15 and any potential survivor benefit payable on account of those persons as determined in accordance with the appropriate mortality table adopted by the board of the public employees retirement association based on the experience of the consolidating relief association or consolidating relief associations as recommended by the actuary retained by the legislative commission on pensions and retirement and using the applicable interest assumption specified in section 356.215, subdivision 4d. A transfer may be made only from the individual account for an electing person's municipality. The executive director may not transfer assets between individual municipal accounts, nor may the executive director transfer assets from the public employees retirement association to the Minnesota postretirement fund to cover liabilities of an individual municipal account.

Subd. 3. [SUBSEQUENT POSTRETIREMENT FUND TRANSFERS.] Upon the retirement of any person who was entitled to a deferred service pension as of the effective date of consolidation or who was a current active member of the relief association as of the effective date of consolidation and who elects coverage by the public employees police and fire fund benefit plan under section 15, the executive director of the public employees retirement association shall transfer from that local relief association consolidation account to the Minnesota postretirement invest-

ment fund assets equal to the required reserves for that retirement annuity and any potential survivor benefit payable under section 353.271. The transfer for any person who was a current active member of the relief association as of the effective date of consolidation and elected coverage by the public employees police and fire fund benefit plan and who also has service credit as an employee of another governmental subdivision in the public employees police and fire fund shall be that amount of the total required reserves which bears the same relationship that the service as an active member of the consolidating relief association bears to the total public employees police and fire fund membership. A transfer may be made only from the individual account for an electing person's municipality. The executive director may not transfer assets between individual municipal accounts, nor may the executive director transfer assets from the public employees retirement association to the Minnesota postretirement fund to cover liabilities of an individual municipal account.

Subd. 4. [MEMBER CONTRIBUTIONS.] Following the effective date of consolidation, the applicable member contribution rate and applicable salary rate to which the member contribution rate applies for persons who were formerly members of the relief association shall be determined as follows:

(1) if the person has elected coverage by the public employees police and fire fund benefit plan under section 15, the applicable member contribution rate shall be that rate specified in section 353.65, subdivision 2, and the applicable salary rate to which the member contribution rate applies shall be the actual salary of the person, as defined in section 353.01, subdivision 10; and

(2) if the person has not elected coverage by the public employees police and fire fund benefit plan under section 15, the applicable member contribution rate shall be the rate specified in section 69.77, subdivision 2a, or the rate specified in the applicable general law, special law or bylaw provision governing the relief association as of the date of the initiation of consolidation, whichever is greater, and the applicable salary rate to which the member contribution rate applies shall be the salary rate specified in the applicable general law, special law or bylaw provision governing the relief association as of the date of the initiation of consolidation or the actual salary of the person, including overtime pay and any regularly occurring special payments but excluding lump sum annual leave payments, worker's compensation payments and severance payments, whichever salary rate is greater.

The member contribution rate and applicable salary rate to which the member contribution rate applies shall be effective as of the first day of the first pay period occurring after the effective date of consolidation.

The chief administrative officer of the municipal police department or municipal fire department, whichever applies, shall cause the member contributions required under this subdivision to be deducted in the manner and subject to the terms provided in section 353.27, subdivision 4.

Subd. 5. [REGULAR AND ADDITIONAL MUNICIPAL CONTRIBUTIONS.] (a) Following the effective date of consolidation, the applicable regular municipal contribution rate and applicable salary rate to which the regular municipal contribution rate applies on behalf of persons who were formerly members of the relief association shall be as follows:

(1) on behalf of persons who have elected coverage by the public employees police and fire fund benefit plan under section 15, the applicable regular municipal contribution rate shall be that specified in section 353.65, subdivision 3, and the applicable salary rate to which the regular municipal contribution rate applies shall be that specified in subdivision 5, clause (1); and

(2) on behalf of persons who have not elected coverage by the public employees police and fire fund benefit plan under section 15, the applicable regular municipal contribution rate shall be 12 percent and the applicable salary rate to which the regular municipal contribution rate applies shall be that specified in subdivision 5, clause (2).

(b) Following the effective date of consolidation, the applicable additional municipal contribution amount shall be the sum of the following:

(1) the annual level dollar contribution as calculated by the actuary retained by the commission as of the effective date of consolidation which is required to amortize by December 31, 2010 that portion of the present value of future benefits computed on the basis of the benefit plan producing the largest present value of future benefits for each individual which remains after subtracting the present value of future member contributions as provided in subdivision 5, the present value of future regular municipal contributions as provided in clause (a) and the assets of the relief association transferred to the fund; and

(2) the proportional amount, based on the relationship which the total active, deferred, and retired membership attributable to the municipality in the account bears to the total active, deferred, and retired membership attributable to all municipalities in the account, of the annual contribution as calculated by the actuary retained by the commission as of the most recent actuarial valuation date which is required to amortize on a level annual dollar basis the amount of any net actuarial experience loss incurred during the year which ended as of the day immediately before the most recent actuarial valuation date by December 31 of the year occurring 15 years later.

(c) Regular municipal contributions shall be made in the manner provided in section 353.28. Additional municipal contributions shall be paid during the calendar following the annual certification of the amount of the annual additional municipal contribution by the executive director of the public employees retirement association and, if made during the month of January, shall be payable without any interest, or if made after January 31, but before the next following December 31, shall be payable with interest for the period since January 1 at a rate which is equal to the preretirement interest rate assumption specified in section 356.215, subdivision 4d, applicable to the fund expressed as a monthly rate and compounded on a monthly basis or if made after December 31 of the year in which the additional municipal contribution is due shall be payable with interest at a rate which is four percent greater than the highest interest rate assumption specified in section 356.215, subdivision 4d, expressed as a monthly rate and compounded monthly from January 1 of the year in which the additional municipal contribution is due until the date on which payment is made.

Subd. 6. [CERTIFICATION OF MUNICIPAL CONTRIBUTIONS.] The governing body of the municipality shall include the amount of any regular municipal contribution and additional municipal contribution in the budget

approved for the municipality and to the extent not paid from other revenue sources of the municipality, in the tax levy certified by the municipality to the county auditor.

Subd. 7. [ACTUARIAL REPORTING.] *In any actuarial valuation of the fund prepared by the actuary retained by the commission or any supplemental actuarial valuation of the fund prepared by an approved actuary retained by the executive director of the public employees retirement association, there shall be included an exhibit setting forth the actuarial accrued liability, current assets, unfunded actuarial accrued liability, normal cost, amortization requirement, and net actuarial experience gain or loss for the local relief association consolidation account and any other relevant items prepared in accordance with the applicable provisions of section 356.215.*

Sec. 17. [353A.10] [MISCELLANEOUS PROVISIONS.]

Subdivision 1. [PROHIBITION ON SERVICE CREDIT PURCHASES AND REPAYMENT OF REFUNDS.] *No member of the public employees retirement association or of the fund who has credit for service rendered before the consolidation as a member of a local police or firefighters relief association which has consolidated with the fund shall be entitled to purchase credit for that prior local relief association service, make payments in lieu of member contribution deductions for that prior local relief association service, or repay any refund of member contributions previously taken.*

A person who has credit for service in more than one local police or firefighters relief association which have consolidated with the fund for service before the consolidation shall not be entitled to purchase credit for any of that local relief association service, but shall be entitled to receive allowable service credit for service previously credited by the most recent local relief association under section 353.01, subdivisions 11, 16, and 18 if the person elects coverage by the public employee police and fire fund benefit plan.

No person who was a member of a local police or firefighters relief association which has consolidated with the fund shall be entitled to purchase credit in the fund for any prior service which at the time it was rendered was covered by the public employees retirement association, although a refund under section 353.34 may be repaid in accordance with section 353.35, 353.71, or 356.30.

No person who was a member of a local police or firefighters relief association which has consolidated with the fund shall be entitled to make any payments in lieu of salary deductions, voluntary assessments or purchases of credit for prior service to the fund in connection with any service for which the person has already received credit by the local relief association or by any other Minnesota public pension plan or for establishing a higher average salary rate than otherwise to the credit of the person.

Subd. 2. [COLLECTION OF LATE CONTRIBUTIONS.] *In the event of a refusal by a municipality in which was located a local police or firefighters relief association which has consolidated with the fund to pay to the fund any amount or amounts due under section 16, subdivision 6, the executive director of the public employees retirement association may notify the department of revenue, the department of finance, and the state auditor of the refusal and commence the necessary procedure to collect*

the amount or amounts due from the amount of any state aid under sections 69.011 to 69.051, amortization state aid under section 423A.02, or supplemental amortization state aid under Laws 1984, chapter 564, section 48, as amended by Laws 1986, chapter 359, section 20, which is payable to the municipality or to certify the amount or amounts due to the county auditor for inclusion in the next tax levy of the municipality or for collection from other revenue available to the municipality, or both.

Subd. 3. [LEVY AND BONDING AUTHORITY.] *A municipality in which was located a local police or firefighters relief association which has consolidated with the fund may issue special obligation bonds of the municipality to defray all or a portion of the principal amounts specified in section 16, subdivision 4 or 6, paragraph (b), clause (1) or certify to the county auditor an additional special levy in the amount necessary to defray all or a portion of the principal amount specified in section 16, subdivision 4 or the annual amount specified in section 16, subdivision 6, paragraph (b), clause (1), or both. Notwithstanding any law to the contrary, any additional special levy shall not be included in any limitation concerning rate or amount established by charter or law and shall be a special levy for the purposes of section 275.50, subdivision 5, clause (o) and any municipal bond issued shall not be included in the net debt of the municipality for purposes of any charter or statutory debt limitation nor shall any tax levy for the payment of bond principal or interest be subject to any limitation concerning rate or amount established by charter or law.*

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

(1) Any person who was an active member of a local police or firefighters relief association upon its consolidation with the fund, who does not elect coverage by the public employees police and fire benefit plan and who commences receipt of a service pension or a disability benefit from the local relief association consolidation account; or

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

(b) The refund of certain member contribution amounts shall be the amount by which any member contributions made to the local relief association consolidation account under section 16, subdivision 5, exceeds the amount of employee or member contributions which would have been payable to the local relief association as provided in the benefit plan in effect on the effective date of consolidation, plus interest at the rate of six percent, compounded quarterly, from the date on which the contribution was made until the date on which the refund is paid.

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

Subd. 5. [SAVINGS CLAUSE.] *Notwithstanding any law to the contrary,*

any person who has commenced receipt of a service pension, disability benefit, or survivor benefit, or who has become entitled to a deferred service pension from a local police or firefighters relief association before the effective date of consolidation with the fund, and who is or becomes a state employee as defined in section 352.01, subdivisions 2 and 2a or a public employee as defined in section 353.01, subdivisions 2 and 2a, on or after the effective date of the consolidation shall be entitled to retain any amounts previously received and to receive that pension or benefit provided by the applicable local relief association benefit plan as of the effective date of the consolidation despite that status as an active state or public employee.

Subd. 6. [ALLOCATION OF STATE AID.] Any municipality in which was located a local police or firefighters relief association which has consolidated with the fund shall allocate to meet the municipal contribution and additional municipal contribution requirements as provided in section 16, subdivision 6, an appropriate portion of any fire or police state aid under sections 69.011 to 69.051, any fire insurance premium tax surcharge, any amortization state aid under section 423A.02 or any supplemental amortization state aid under Laws 1984, chapter 564, section 48, as amended by Laws 1986, chapter 359, section 20. State aids for pension purposes referred to in this subdivision that were exclusively for payment to pension funds must continue to be dedicated to that purpose.

Subd. 7. [APPLICABILITY OF CHAPTER 353.] The provisions of chapter 353 shall govern in all instances where not inconsistent with the provisions of sections 8 to 17 for the administration of the local relief association consolidation account.

Sec. 18. [353B.01] [LOCAL RELIEF ASSOCIATION BENEFIT PLANS; APPLICATION.]

The provisions of this chapter shall govern the benefit coverage and payment of benefits of any person who was a member of a local relief association consolidating with the public employees police and fire fund as provided in sections 8 to 17 and who elects to retain benefit coverage in the local relief association benefit plan as provided in section 15.

Sec. 19. [353B.02] [DEFINITIONS.]

Subdivision 1. [TERMS.] Unless the language or content clearly indicates otherwise, each of the following terms shall have the meaning ascribed to it in this section.

Subd. 2. [ACCUMULATED CONTRIBUTIONS.] "Accumulated contributions" means the amount of member contributions to the credit of a covered employee made before the effective date of the consolidation as indicated in the records of the consolidating local relief association transferred to the public employees police and fire fund and the amount of member contributions made by the covered employee after the effective date of the consolidation.

Subd. 3. [ALLOWABLE SERVICE.] "Allowable service" means any service rendered by a covered employee before the effective date of the consolidation as indicated in the records of the consolidating local relief association transferred to the public employees police and fire fund and any service rendered by a covered employee as a police officer or a firefighter, whichever applies, in the municipality in which the local relief association is located.

Subd. 4. [COVERED EMPLOYEE.] "Covered employee" means a person who elects to retain benefit coverage in the local relief association benefit plan under section 15 and who remains employed in the position of a police officer or firefighter, whichever applies, after the effective date of the consolidation.

Subd. 5. [DISABILITY.] "Disability" means the inability by virtue of any medically determinable injury or illness to perform the employment duties of a police officer or firefighter, whichever applies, in the municipality in which the consolidating relief association was located.

Subd. 6. [FUND.] "Fund" means the public employees police and fire fund established by and operating under chapter 353.

Subd. 7. [PRIOR SERVICE.] "Prior service" means any period of military service rendered in between periods of service as a police officer or firefighter, whichever applies, in the municipality in which the consolidating relief association was located.

Subd. 8. [RETIRED MEMBER.] "Retired member" means any person who is receiving a service pension or disability benefit following termination of active employment as a police officer or firefighter, whichever applies, in the municipality in which the consolidating relief association was located.

Subd. 9. [RETIREMENT.] "Retirement" means the period following the termination of active employment as a police officer or firefighter, whichever applies, in the municipality in which the consolidating relief association was located and commencement of the payment of a service pension or disability benefit to the person.

Subd. 10. [SALARY.] (a) "Salary" for benefit computation and contribution purposes means the salary of a first class or first grade firefighter or patrol officer, whichever applies, for the former members of the following consolidating relief associations:

- (1) Anoka police relief association;
- (2) Austin firefighters relief association;
- (3) Austin police relief association;
- (4) Columbia Heights fire department relief association, paid division;
- (5) Columbia Heights police relief association;
- (6) Fairmont police benefit association;
- (7) Faribault fire department relief association;
- (8) Mankato fire department relief association;
- (9) Minneapolis fire department relief association;
- (10) Minneapolis police relief association;
- (11) Richfield fire department relief association;
- (12) Rochester fire department relief association;
- (13) Rochester police relief association;
- (14) St. Cloud fire department relief association;
- (15) St. Cloud police relief association;

- (16) *St. Paul fire department relief association;*
- (17) *South St. Paul firefighters relief association;*
- (18) *West St. Paul firefighters relief association;*
- (19) *West St. Paul police relief association; and*
- (20) *Winona fire department relief association.*

(b) "Salary" for benefit computation purposes means the salary of a first grade patrol officer for the second month of the previous fiscal year and for contribution purposes means the current salary of a first grade patrol officer, for the former members of the following consolidating relief associations:

- (1) *Bloomington police relief association;*
- (2) *Crystal police relief association;*
- (3) *Fridley police pension association;*
- (4) *Richfield police relief association;*
- (5) *St. Louis Park police relief association; and*
- (6) *Winona police relief association.*

(c) "Salary" for benefit computation purposes means the final salary and for contribution purposes means the current salary for the former members of the following consolidating relief associations:

- (1) *Albert Lea firefighters relief association;*
- (2) *Albert Lea police relief association;*
- (3) *Buhl police relief association;*
- (4) *Chisholm firefighters relief association;*
- (5) *Crookston fire department relief association;*
- (6) *Crookston police relief association;*
- (7) *Faribault police benefit association;*
- (8) *Red Wing police relief association; and*
- (9) *Virginia fire department relief association.*

(d) "Salary" for benefit computation purposes means the average earnings or salary for the final six months of employment before retirement and for contribution purposes means the current salary for the former members of the following consolidating relief associations:

- (1) *Chisholm police relief association;*
- (2) *Hibbing firefighters relief association; and*
- (3) *Hibbing police relief association.*

(e) "Salary" for benefit computation purposes means the greater of the final salary at retirement or the highest salary of a patrol officer and for contribution purposes means the greater of the current salary or the current highest salary of a patrol officer for the former members of the following consolidating relief associations:

- (1) *Brainerd police benefit association; and*

(2) *New Ulm police relief association.*

(f) *"Salary" for benefit computation and contribution purposes means the following for the former members of the consolidating relief associations as indicated:*

(1) *maximum pay of a firefighter, Duluth firefighters relief association;*

(2) *salary of a first class patrol officer with 16 years of service, Duluth police pension association;*

(3) *base salary for the rank currently held, plus longevity pay, pay for eligibility for next higher rank and pay for first aid care, Mankato police benefit association;*

(4) *average annual salary for highest three paid years for benefit computation purposes and current salary for contribution purposes, Red Wing fire department relief association;*

(5) *pay of the highest grade full time firefighter, St. Louis Park fire department relief association;*

(6) *maximum monthly pay of a patrol officer, St. Paul police relief association;*

(7) *prevailing base pay of rank held at retirement for benefit computation purposes and current salary for contribution purposes, South St. Paul police relief association; and*

(8) *prevailing pay for rank held for at least six months before retirement for benefit computation purposes and current salary for contribution purposes, Virginia police relief association.*

Subd. 11. [SALARY BASE.] "Salary base" means the salary amount as defined in subdivision 10 to which a specified percentage rate or rates shall be applied in determining a service pension, disability benefit, or survivor benefit.

Subd. 12. [YEAR OF ALLOWABLE SERVICE.] "Year of allowable service" means any 12 calendar months, not necessarily consecutive, in which a member of a consolidating relief association received compensation for being a police officer or firefighter, whichever applies, from the municipality in which the consolidating relief association was located and was eligible to credit for service.

Sec. 20. [353B.03] [COVERAGE AND TERMINATION OF COVERAGE.]

Any person who was a member of a consolidating relief association and who is a police officer or firefighter, whichever applies, in the municipality in which the consolidating relief association was located on or after the effective date of consolidation shall be eligible for the applicable benefit coverage provided for in this chapter.

Upon termination of active employment in the position which gave rise to the eligibility of the person for coverage by this chapter, that eligibility for benefit coverage shall terminate.

Sec. 21. [353B.04] [ADMINISTRATION.]

The benefit coverage under this chapter shall be administered by the public employees retirement association. Unless otherwise specified and where not inconsistent with a provision of this chapter, the provisions of chapter 353 shall govern in the administration of this chapter.

Sec. 22. [353B.05] [LOCAL RELIEF ASSOCIATION ACCOUNTS WITHIN FUND.]

Subdivision 1. [ACCOUNTS.] The local relief association consolidation accounts are governed by section 16.

Subd. 2. [MEMBER CONTRIBUTION RATES.] (a) Except as provided in paragraph (b), the member contribution rate for all consolidating local relief association members shall be eight percent of salary.

(b) The member contribution rate shall be the following for the former members of the consolidating relief associations as indicated:

(1) The federal insurance contribution act percentage amount plus four percent applied to salary equal to or less than the Federal Social Security Act taxable wage base and four percent applied to salary in excess of the Federal Social Security Act taxable wage base, Mankato fire department relief association, and Mankato police benefit associations;

(2) 8.75 percent of salary, New Ulm police relief association; and

(3) 8.25 percent of salary, St. Cloud police relief association.

Subd. 3. [ACCOUNT DISBURSEMENT RESTRICTED.] A local relief association consolidation account shall be disbursed only for the purposes provided in sections 8 to 17 and this chapter. The amounts necessary to make authorized disbursements from a local relief association consolidation account are annually appropriated.

Sec. 23. [353B.06] [TREASURER OF ACCOUNTS; INVESTMENT.]

Subdivision 1. [TREASURER.] The state treasurer is the ex officio treasurer of the accounts as provided in section 353.05.

Subd. 2. [INVESTMENT.] The assets of the account shall be invested by the state board of investment as provided in section 353.06.

Sec. 24. [353B.07] [SERVICE PENSIONS.]

Subdivision 1. [AGE AND SERVICE ELIGIBILITY REQUIREMENTS.]

(a) Except as provided in paragraph (b), upon termination of active employment as a police officer or firefighter, whichever applies, in the city in which the consolidating local relief association was located, and person who was a member of a consolidating local relief association who has attained the age of at least 50 years and who has credit for at least 20 years of allowable service shall be entitled upon application to receive a service pension.

(b) The age and service eligibility requirements upon termination of active employment as a police officer or firefighter, whichever applies, in the city in which the consolidating local relief association was located for entitlement upon application for the receipt of a service pension shall be the following for the former members of the consolidating relief associations as indicated:

(1) attainment of the age of 55 years and the acquisition of credit for at least 20 years of allowable service, Chisholm firefighters relief association and Chisholm police relief association;

(2) attainment of the age of 60 years and the acquisition of credit for at least 20 years of allowable service, Crookston fire department relief association;

(3) attainment of the age of 50 years and the acquisition of credit for at least ten years of allowable service, Crookston police relief association;

(4) attainment of the age of 50 years and the acquisition of credit for at least ten years of allowable service, Fridley police pension association;

(5) attainment of the age of 55 years and the acquisition of credit for at least 20 years of allowable service, Hibbing firefighters relief association and Hibbing police relief association;

(6) attainment of the age of 50 years if first employed before January 1, 1968, or of the age of 55 years if first employed after December 31, 1967, and the acquisition of credit for at least 20 years of allowable service, Richfield fire department relief association;

(7) attainment of the age of 55 years and the acquisition of credit for at least 20 years of allowable service credit, Richfield police relief association;

(8) attainment of the age of 50 years if first employed prior to July 1, 1969, or of the age of 55 years if first employed after June 30, 1969, and the acquisition of credit for at least 20 years of allowable service, Rochester fire department relief association and Rochester police relief association; and

(9) attainment of the age of 55 years and the acquisition of credit for at least 20 years of allowable service, West St. Paul firefighters relief association.

Subd. 2. [SERVICE PENSION.] The service pension shall be the formula percentage rate or rates specified in subdivision 4 applied to the salary base cited in section 19, subdivision 11.

Subd. 3. [FORMULA PERCENTAGE RATE.] (a) The formula percentage rate shall be 2.333 percent per year of allowable service for each of the first 20 years of allowable service, 1.333 percent per year of allowable service for each year of allowable service in excess of 20 years but not in excess of 27 years, and .5 percent for each year of allowable service in excess of 25 years for the former members of the following consolidating relief associations:

(1) Rochester fire department relief association;

(2) Rochester police relief association;

(3) St. Cloud fire department relief association;

(4) St. Cloud police relief association;

(5) St. Louis Park police relief association;

(6) Winona fire department relief association; and

(7) Winona police relief association.

(b) The formula percentage rate shall be 2.5 percent per year of allowable service for each of the first 20 years of allowable service for the former members of the following consolidating relief associations:

(1) Albert Lea police relief association;

(2) Anoka police relief association;

(3) Faribault fire department relief association;

(4) Faribault police benefit association;

- (5) Mankato police benefit association;
- (6) Red Wing police relief association; and
- (7) West St. Paul police relief association.

(c) The formula percentage rate shall be 2.5 percent per year of allowable service for each of the the first 20 years of allowable service and .5 percent per year of allowable service for each year of service in excess of 25 years of allowable service for the former members of the following consolidating relief associations:

- (1) Austin firefighters relief association;
- (2) Austin police relief association;
- (3) South St. Paul firefighters relief association;
- (4) South St. Paul police relief association; and
- (5) Virginia police relief association.

(d) The formula percentage rate shall be 2.1875 percent per year of allowable service for each of the first 20 years of allowable service and 1.25 percent per year of allowable service for each year of allowable service in excess of 20 years of allowable service but not in excess of 27 years of allowable service for the former members of the following consolidating relief associations:

- (1) Bloomington police relief associations; and
- (2) Columbia Heights police relief association.

(e) The formula percentage rate shall be 2.65 percent per year of allowable service for each of the first 20 years of allowable service and an additional annual benefit of \$120 per year of allowable service in excess of 20 years of allowable service but not in excess of 25 years of allowable service for the former members of the following consolidating relief associations:

- (1) Hibbing firefighters relief association; and
- (2) Hibbing police relief association.

(f) The formula percentage rate or rates shall be the following for the former members of the consolidating relief associations as indicated:

(1) 2.5 percent per year of allowable service for each of the first 20 years of allowable service, one percent per year of allowable service in excess of 20 years of allowable service but not more than 25 years of allowable service, and 1.5 percent per year of allowable service in excess of 25 years of allowable service, Albert Lea firefighters relief association;

(2) the greater of 2.5 percent per year of allowable service for each of the first 20 years of allowable service applied to the final salary base, or two percent per year of allowable service for each of the first 20 years of allowable service applied to top grade patrol officer's salary base, Brainerd police relief association;

(3) 4.25 percent per year of allowable service for each of the first 20 years of allowable service and an additional benefit of \$10 per month per year of allowable service in excess of 20 years of allowable service but not more than 25 years of allowable service, Buhl police relief association;

(4) 2.5 percent per year of allowable service for each of the first 20 years of allowable service and an additional benefit of \$5 per month per year of allowable service in excess of 20 years of allowable service but not more than 25 years of allowable service, Chisholm firefighters relief association;

(5) 2.5 percent per year of allowable service for each of the first 20 years of allowable service and an additional benefit of \$5 per month per year of allowable service in excess of 20 years of allowable service but not more than 25 years of allowable service and .5 percent per year of allowable service in excess of 25 years of allowable service, Chisholm police relief association;

(6) 2.1875 percent per year of allowable service for each year of the first 20 years of allowable service, 1.25 percent per year of allowable service in excess of 20 years of allowable service but not more than 25 years of allowable service and 1.75 percent per year of allowable service in excess of 25 years of allowable service, Columbia Heights fire department relief association, paid division;

(7) 2.5 percent per year of allowable service for each year of the first 20 years of allowable service and 1.5 percent per year of allowable service rendered after attaining the age of 60 years, Crookston fire department relief association;

(8) 2.5 percent per year of allowable service for each year of the first 30 years of allowable service, Crookston police relief association;

(9) 2.25 percent per year of allowable service for each year of the first 20 years of allowable service and 1.25 percent per year of allowable service in excess of 20 years of allowable service, but not more than 27 years of service, Crystal police relief association;

(10) 1.99063 percent per year of allowable service for each year of the first 20 years of allowable service, 1.25 percent for the 21st year of allowable service, and 2.5 percent per year of allowable service in excess of 21 years of allowable service but not more than 25 years of allowable service, Duluth firefighters relief association;

(11) 1.9875 percent per year of allowable service for each year of the first 20 years of allowable service, 1.25 percent for the 21st year of allowable service, and 2.5 percent per year of allowable service in excess of 21 years of allowable service but not more than 25 years of allowable service, Duluth police relief association;

(12) 2.5 percent per year of allowable service for each year of the first 20 years of allowable service, and two percent per year of allowable service in excess of 20 years but not more than 25 years of allowable service and not to include any year of allowable service rendered after attaining the age of 55 years, Fairmont police benefit association;

(13) two percent per year of allowable service for each year of the first ten years of allowable service, 2.67 percent per year of allowable service in excess of ten years of allowable service but not more than 20 years of allowable service and 1.3333 percent per year of allowable service in excess of 20 years of service but not more than 27 years of allowable service, Fridley police pension association;

(14) 2.5 percent per year of allowable service for each year of the first 20 years of allowable service and an additional annual amount of \$30 per

year of allowable service in excess of 20 years of allowable service but not more than 30 years of allowable service, Mankato fire department relief association;

(15) 2.0625 percent per year of allowable service for each year of the first 20 years of allowable service, 1.25 percent per year of allowable service in excess of 20 years of allowable service but not more than 24 years of allowable service and five percent for the 25th year of allowable service, Minneapolis fire department relief association;

(16) 2.125 percent per year of allowable service for each year of the first 20 years of allowable service, 1.25 percent per year of allowable service in excess of 20 years of allowable service but not more than 24 years of allowable service, and five percent for the 25th year of allowable service, Minneapolis police relief association;

(17) the greater of 2.5 percent per year of allowable service for each of the first 20 years of allowable service applied to the final salary base, or two percent per year of allowable service for each of the first 20 years of allowable service applied to highest patrol officer's salary base plus .5 percent of the final salary base per year of allowable service for each of the first three years of allowable service in excess of 20 years of allowable service, New Ulm police relief association;

(18) two percent per year of allowable service for each of the first 25 years of allowable service and 1.5 percent per year of allowable service in excess of 25 years of allowable service, Red Wing fire department relief association;

(19) 2.55 percent per year of allowable service for each of the first 20 years of allowable service, Richfield fire department relief association;

(20) 2.4 percent per year of allowable service for each of the first 20 years of allowable service and 1.3333 percent per year of allowable service in excess of 20 years of allowable service but not more than 27 years of allowable service, Richfield police relief association;

(21) 2.6 percent per year of allowable service for each of the first 20 years of allowable service and one percent per year of allowable service in excess of 20 years of allowable service but not more than 30 years of allowable service, St. Louis Park fire department relief association;

(22) 1.9375 percent per year of allowable service for each of the first 20 years of allowable service, 2.25 percent per year of allowable service in excess of 20 years of allowable service but not more than 25 years of allowable service, and .5 percent per year of allowable service in excess of 25 years of allowable service, St. Paul fire department relief association;

(23) two percent per year of allowable service for each of the first 25 years of allowable service and .5 percent per year of allowable service in excess of 25 years of allowable service, St. Paul police relief association;

(24) 2.25 percent per year of allowable service for each of the first 20 years of allowable service and one percent per year of allowable service in excess of 20 years but not more than 25 years of allowable service and .5 percent per year of allowable service in excess of 25 years, Virginia fire department relief association; and

(25) two percent per year of allowable service for each of the first 20

years of allowable service, one percent per year of allowable service in excess of 20 years but not more than 24 years of allowable service, three percent for the 25th year of allowable service and one percent per year of allowable service in excess of 25 years of allowable service but not more than 30 years of allowable service, West St. Paul firefighters relief association.

Subd. 4. [APPLICATION.] *The application for a service pension shall be made in writing on a form prescribed by the executive director of the public employees retirement association by the person entitled to the service pension, or by a person authorized to act on the behalf of that person, and shall be accompanied by appropriate substantiation in writing of the age of the person entitled to the service pension.*

Subd. 5. [ACCRUAL.] *A service pension governed by this section shall accrue as provided in section 353.29, subdivision 7.*

Subd. 6. [PAYMENT.] *Payment of a service pension governed by this section shall be made in accordance with section 353.29, subdivision 8.*

Subd. 7. [REEMPLOYMENT OF SERVICE PENSIONER.] *The reemployment of a person receiving a service pension governed by this section by the municipality in which the consolidating local relief association was located or any governmental subdivision as that term is defined in section 353.01, subdivision 6, shall not effect the amount of the service pension.*

Sec. 25. [353B.08] [DISABILITY BENEFITS.]

Subdivision 1. [DUTY DISABILITY ELIGIBILITY REQUIREMENTS.]
(a) *For any former member of a consolidating relief association, upon termination of active employment as a police officer or firefighter, whichever applies, in the municipality in which the consolidating local relief association was located, any person who was a member of a consolidating local relief association who is not entitled to a service pension, who becomes disabled from an injury or illness arising out of or in the course of the line of duty shall be entitled upon application to receive a duty disability benefit.*

(b) *The additional requirement of the acquisition of credit for at least one month of allowable service credit shall apply for former members of the Winona fire department relief association.*

Subd. 2. [NONDUTY DISABILITY ELIGIBILITY REQUIREMENTS.]
(a) *For any former member of a consolidating relief association, upon termination of active employment as a police officer or firefighter, whichever applies, in the municipality in which the consolidating local relief association was located, any person who was a member of a consolidating local relief association, who is not entitled to a service pension, who becomes disabled from an injury or illness which does not arise out of or does not occur in the course of the line of duty shall be entitled upon application to receive a nonduty disability benefit.*

(b) *The following additional requirement shall apply for the former members of the consolidating relief associations as indicated:*

(1) *the acquisition of credit for at least ten years of allowable service credit, Chisholm firefighters relief association; and*

(2) *the acquisition of credit for at least one month of allowable service credit, Winona fire department relief association.*

Subd. 2a. [CLASSES OF DISABILITIES IN CERTAIN INSTANCES.]

(a) Except as specified in paragraph (b), there shall be no classes of disabilities or disability benefits for former members of consolidating relief associations.

(b) The classes for disabilities and disability benefits shall be the following for the former members of the consolidating relief associations as indicated:

(1) A first class disability shall be a total inability to engage in any gainful employment resulting from any medically determinable injury or illness, a second class disability shall be an inability to engage in any gainful employment resulting from any medically determinable injury or illness which is greater than a 50 percent inability and less than a total inability, and a third class disability shall be an inability to engage in any gainful employment resulting from any medically determinable injury or illness which is less than a 50 percent inability but is an inability to perform the duties of a firefighter in the municipality, Hibbing firefighters relief association; and

(2) A disability shall be an inability to perform the duties of a firefighter in the municipality resulting from any medically determinable injury or illness, with a first class disability additionally requiring an inability to perform any manual labor, a second class disability additionally encompassing a disability less severe than a first class disability allowing for the performance of light manual labor or office work and a third class disability additionally encompassing a disability less severe than a second class disability allowing for the performance of manual labor which is less strenuous or demanding than light manual labor, Minneapolis fire department relief association.

Subd. 3. [APPLICATION.] Every claim or demand for a disability benefit shall be initiated by a written application on a form prescribed by the executive director of the public employees retirement association which shall be accompanied by medical evidence to support the claimed disability.

Subd. 4. [MEDICAL EVIDENCE; BENEFIT ELIGIBILITY; DETERMINATION.] The medical basis for the claimed disability and the eligibility for a disability benefit shall be evaluated by the medical advisor for the public employees retirement association. If the submitted medical evidence is not conclusive to establish the claimed disability and eligibility for a disability benefit, the medical advisor shall notify the executive director of the public employees retirement association of that situation and the executive director shall undertake referral of the applicant to the applicable medical consultants for examination and medical recommendation. The recommendation of the medical advisor and that of any medical consultants shall be reviewed by the executive director. If there is sufficient evidence of the claimed disability and eligibility for a disability benefit, the executive director of the public employees retirement association shall grant the person the disability benefit. An appeal of any adverse determination may be made to the board of the public employees retirement association.

Subd. 5. [BENEFIT ACCRUAL.] The benefit shall accrue from the first day of the month next following the commencement of the disability or the first day of the month next following the date on which any sick leave, annual leave or salary continuation payments cease.

Subd. 6. [DUTY DISABILITY BENEFIT AMOUNT.] (a) The duty dis-

ability benefit shall be an amount equal to the service pension amount to which the person would have been entitled if the person had credit for the greater of actual years of allowable service or 20 years of allowable service, had attained the minimum age for the receipt of a service pension and had applied for a service pension rather than a disability benefit for the former members of the following consolidating relief associations:

- (1) Albert Lea firefighters relief association;*
- (2) Albert Lea police relief association;*
- (3) Anoka police relief association;*
- (4) Austin police relief association;*
- (5) Buhl police relief association;*
- (6) Chisholm police relief association;*
- (7) Duluth firefighters relief association;*
- (8) Duluth police relief association;*
- (9) Faribault fire department relief association;*
- (10) Mankato police benefit association;*
- (11) Minneapolis police relief association;*
- (12) New Ulm police relief association;*
- (13) Red Wing police relief association; -*
- (14) St. Paul police relief association;*
- (15) South St. Paul police relief association; and*
- (16) Virginia police relief association.*

(b) The duty disability benefit shall be an amount equal to 48 percent of the salary base for the former members of the following consolidating relief associations:

- (1) Fridley police pension association;*
- (2) Richfield police relief association;*
- (3) Rochester fire department relief association;*
- (4) Rochester police relief association;*
- (5) St. Cloud fire department relief association;*
- (6) St. Cloud police relief association;*
- (7) St. Louis Park police relief association; and*
- (8) Winona police relief association.*

(c) The duty disability benefit shall be an amount equal to 50 percent of the salary base for the former members of the following consolidating relief associations:

- (1) Austin firefighters relief association;*
- (2) Crookston fire department relief association;*
- (3) Fairmont police benefit association;*
- (4) Mankato fire department relief association;*

- (5) *Richfield fire department relief association;*
- (6) *South St. Paul firefighters relief association; and*
- (7) *Virginia fire department relief association.*

(d) The duty disability benefit shall be an amount equal to 45 percent of the salary base for the former members of the following consolidating relief associations:

- (1) Bloomington police relief association; and*
- (2) Crystal police relief association.*

(e) The duty disability benefit shall be an amount equal to 40 percent of the salary base for the former members of the following consolidating relief associations:

- (1) West St. Paul firefighters relief association; and*
- (2) West St. Paul police relief association.*

(f) The duty disability benefit shall be the following for the former members of the consolidating relief associations as indicated:

(1) 40 percent of the top salary for a patrol officer, Brainerd police relief association;

(2) \$100 per month, Chisholm firefighters relief association;

(3) 37.5 percent of the salary base if the person has credit for less than ten years of allowable service, 43.75 percent of the salary base if the person has credit for more than nine years but less than 15 years of allowable service and 50 percent of the salary base if the person has credit for more than 14 years of allowable service credit, Columbia Heights fire department relief association, paid division;

(4) 43.75 percent of the salary base, Columbia Heights police relief association;

(5) 25 percent of the salary base if the person has credit for less than 12 years of allowable service and an additional amount equal to 2.5 percent of the salary base per year if allowable service for each year of allowable service in excess of 11 years of allowable service, not more than 50 percent, Crookston police relief association;

(6) 12.5 percent of the salary base if the person has credit for less than six years of allowable service, 2.5 percent of the salary base per year of allowable service if the person has more than five years of allowable service, but not more than 50 percent of the salary base, Faribault police benefit association;

(7) the dollar amount which equals the benefit which would be payable under chapter 176 for a comparable benefit which qualifies for a worker's compensation benefit for a first class disability, 75 percent of the amount payable in the event of a first class disability for a second class disability and 50 percent of the amount payable in the event of a first class disability for a third class disability, Hibbing firefighters relief association;

(8) \$120 per month, Hibbing police relief association;

(9) 51.25 percent of the salary base for a first class disability, 41.25 percent of the salary base for a second class disability, and 31.25 percent of the salary base for a third class disability, Minneapolis fire department

relief association;

(10) 40 percent of the salary base if the person has credit for less than 20 years of allowable service and two percent of the salary base per year of allowable service if the person has more than 19 years of allowable service, but not more than 50 percent, Red Wing fire department relief association;

(11) 50 percent of the salary base if the person has credit for less than 21 years of allowable service and an amount equal to the service pension amount to which the person would have been entitled based on the applicable amount of allowable service if the person had attained the minimum age for the receipt of a service pension and had applied for a service pension rather than a disability benefit and if the person has credit for at least 20 years of allowable service, St. Louis Park fire department relief association;

(12) 50 percent of the salary base if the person is not able to perform the duties of any other gainful employment, 39.375 percent of the salary base if the person is only able to perform the duties of light manual labor or office employment and 33.75 percent of the salary base if the person is able to perform the duties of other manual labor, St. Paul fire department relief association; and

(13) 42.667 percent of the salary base, Winona fire department relief association.

Subd. 7. [NONDUTY DISABILITY BENEFIT AMOUNT.] (a) Except as specified in paragraph (b) or (c), the nonduty disability benefit shall be an amount equal to the amount of the duty disability benefit.

(b) The nonduty disability benefit shall be the following for the former members of the consolidating relief associations as indicated:

(1) of the salary of a top patrol officer, 30 percent if the person has credit for less than ten years of allowable service and 40 percent if the person has credit for ten or more years of allowable service, Brainerd police benefit association;

(2) a percentage of the salary base ranging from 39.8125 percent to 51.0625 percent as determined by the executive director of the public employees retirement association based on the severity of the circumstances and the extent of disability of the person, applied in a uniform manner and reflective to the extent practicable or determinable to the past administrative practices of the board of the consolidating relief association before the effective date of the consolidation, Duluth firefighters relief association;

(3) two percent of the salary base per year of allowable service but in total not less than ten percent of the salary base and not more than 40 percent of the salary base, Red Wing fire department relief association;

(4) two percent of the salary base per year of allowable service but in total not more than 40 percent of the salary base, St. Paul police relief association; and

(5) 35 percent of the salary base, Virginia fire department relief association.

(c) No nonduty benefit shall be payable from the Crookston fire department relief association.

Subd. 8. [WORKERS' COMPENSATION OFFSET.] (a) Except as specified in paragraph (b) and except to the extent that section 423A.14 applies, there shall be no reduction in the amount of any disability benefit by virtue of the receipt of any workers' compensation benefit or amount under chapter 176.

(b) The amount of any disability benefit payable shall be reduced by the amount of any workers' compensation benefit or amount received or receivable under chapter 176 for the former members of the following consolidating relief associations:

- (1) Crookston fire department relief association;
- (2) Red Wing police relief association; and
- (3) West St. Paul police relief association.

Subd. 9. [OTHER BENEFIT OFFSETS.] (a) Except as specified in paragraph (b) and except to the extent that section 423A.14 applies, there shall be no reduction in the amount of any disability benefit by virtue of any gainful compensation engaged in following the commencement of the disability benefit.

(b) The amount of any disability benefit payable shall be reduced by the amount by which the benefit and income from any gainful employment exceeds 120 percent of the salary base for the former members of the West St. Paul firefighters relief association.

Subd. 10. [OTHER DISABILITY BENEFIT COVERAGE.] (a) For former members of the Buhl police relief association, a disabled member shall be entitled to a short term disability benefit of \$8 per day for a maximum of 26 weeks, during which period no duty or nonduty disability benefit shall be payable.

(b) For former members of the Crookston police relief association, an additional benefit of \$25 per month for each child of the disabled person who has not attained the age of 18 years and who is actually dependent on the disabled person shall be payable, but in combination with the disability benefit payable as provided in subdivision 6 or 7, the total benefit shall not exceed 50 percent of the salary base.

Subd. 11. [SUBSEQUENT MEDICAL REEXAMINATIONS.] Periodically, upon the recommendation of the medical adviser appointed as provided in section 353.33, subdivision 6a, based on the medical nature of the initial qualifying disability and its potential for improvement or recovery, the executive director of the public employees retirement association shall have a former member of a consolidating relief association who is receiving a disability benefit reexamined and reevaluated for continued entitlement to a disability benefit. If, upon the recommendation of the medical adviser, the executive director determines that the person is no longer entitled to receive a disability benefit, the disability benefit shall be discontinued effective as of the first day of the second month following that determination and the person shall be considered for reemployment as a police officer or a firefighter, whichever applies, by the municipality in which the consolidating relief association was located.

Subd. 12. [RETURN TO SERVICE.] If a former member of a consolidating relief association who was receiving a disability benefit returns to active employment by a governmental subdivision, the disability benefit shall terminate, the person shall return to the appropriate active member

status and shall retain any service credit rendered before the receipt of the disability benefit.

Subd. 13. [RECOMPUTATION OF DISABILITY BENEFIT.] (a) Except as additionally provided in paragraph (b), a disability benefit shall be recomputed as a service pension as provided in section 423A.11.

(b) A disability benefit shall be subject to the following recomputation as a service pension for the former members of the consolidating relief associations as indicated:

(1) for a person with 15 or more years of allowable service, the disability benefit shall be recomputed as a service pension upon the person attaining the age of 50 years based on credited allowable service, assuming a minimum of 20 years of service, Columbia Heights fire department relief association, paid division;

(2) for a person with more than 21 years of allowable service, the disability benefit shall be recomputed as a service pension upon the person attaining the age of 50 years based on credited allowable service, Crystal police relief association; and

(3) for a person with sufficient allowable service to result in a service pension amount greater than 40 percent of the salary base, the disability benefit shall be recomputed as a service pension upon the person attaining the age of 50 years based on credited allowable service, St. Paul police relief association.

Sec. 26. [353B.09] [REFUND.]

Subdivision 1. [ENTITLEMENT.] A former member of a consolidating relief association who terminates active employment as a police officer or firefighter, whichever applies, by the municipality in which the consolidating relief association is located, to whom no other benefit is payable and who is not reemployed by that or another governmental subdivision within a period of 30 days following the termination of employment shall be entitled to receive a refund.

Subd. 2. [REFUND AMOUNT.] (a) Except as provided in paragraph (b), (c), or (d), the refund payable to a person entitled as provided in subdivision 1 shall be the total amount of accumulated member contributions, without interest.

(b) The refund payable to a person entitled as provided in subdivision 1 shall be 75 percent of the total amount of accumulated member contributions, without interest, for the former members of the following consolidating relief associations:

- (1) Bloomington police relief association;*
- (2) Fridley police pension association;*
- (3) Richfield police relief association;*
- (4) Rochester fire department relief association;*
- (5) Rochester police relief association;*
- (6) St. Cloud police relief association;*
- (7) St. Louis Park police relief association;*
- (8) Winona fire department relief association; and*

(9) *Winona police relief association.*

(c) *The refund payable to a person entitled as provided in subdivision 1 shall be \$500 plus \$100 per full year of allowable service in excess of five years of allowable service if the member terminates with at least five years of allowable service but less than 20 years of allowable service, for the former members of the Minneapolis police relief association.*

(d) *No refund shall be payable for the former members of the following consolidating relief associations:*

- (1) *Duluth firefighters relief association;*
- (2) *Duluth police pension association;*
- (3) *Minneapolis fire department relief association;*
- (4) *St. Paul fire department relief association; and*
- (5) *St. Paul police relief association.*

Sec. 27. [353B.10] [DEFERRED SERVICE PENSION.]

Subdivision 1. [ENTITLEMENT.] (a) Except as specified in paragraph (b), any former member of a consolidating relief association who has terminated active employment, who has acquired sufficient allowable service credit but who has not attained the age applicable to that former member specified in section 24, subdivision 1, may, in lieu of any refund to which the person may be entitled, leave the amount of any accumulated member contributions in the local relief association consolidation account and thereby be entitled to a deferred service pension upon or after attaining the specified age.

(b) Any former member who has terminated active employment, may, in lieu of any refund to which the person may be entitled, leave the amount of any accumulated member contributions in the local relief association consolidation account and thereby be entitled to a deferred service pension upon or after attaining the applicable specified age if the person has acquired the amount of allowable service credit as indicated for the former members of the following consolidating relief associations:

(1) at least 20 years of allowable service if the member terminated active employment before attaining the age of 50 years, deferred until the attainment of the age of 50 years, or at least ten years of allowable service but less than 20 years of allowable service if the member terminated active employment before attaining the age of 57 years, deferred until the attainment of the age of 57 years, Albert Lea police relief association;

(2) any period of allowable service, deferred until the attainment of the age of 50 years if first employed before January 1, 1968, or until the attainment of the age of 55 years if first employed after December 31, 1967, Richfield fire department relief association;

(3) any period of allowable service, deferred to the age of 55 years, Richfield police relief association;

(4) at least ten years of allowable service, deferred until the latter of the attainment of the age of 50 years or the first day of the month following the date on which the person would have acquired 20 years of allowable service credit assuming continuous future service, St. Louis Park fire department relief association and St. Louis Park police relief association; and

(5) at least ten years of allowable service, deferred until the attainment of the age of 50 years, West St. Paul police relief association.

Subd. 2. [DEFERRED SERVICE PENSION AMOUNT.] (a) Except as specified in paragraph (b), the deferred service pension shall be in the amount calculated as provided in section 24.

(b) The deferred service pension shall be the following for the former members of the consolidating relief associations as indicated:

(1) for a deferred service pension based on at least ten years of allowable service but less than 20 years of allowable service, 2.5 percent of the salary base per year of allowable service, Albert Lea police relief association;

(2) the amount calculated as provided in section 24, but not more than 50 percent of the salary base, Crystal police relief association;

(3) 2.5 percent per year of allowable service of the salary base, but not to exceed 50 percent of the salary base, Richfield fire department relief association;

(4) the amount calculated as provided in section 24, but not more than 54.6667 percent of the salary base, if the person had at least 20 years of allowable service credit, or 2.3333 percent of the salary base per year of allowable service, but not more than 46.6667 percent of the salary base, if the person had less than 20 years of allowable service credit, and if the person dies before attaining the age of 55 years with less than 20 years of allowable service credit, no survivor benefits shall be payable but a refund as provided in section 26 shall be payable, Richfield police relief association;

(5) the amount calculated as provided in section 24, but not more than 53.3333 percent of the salary base, St. Cloud fire department relief association and St. Cloud police relief association;

(6) the amount calculated as provided in section 24, but not more than 56 percent of the salary base, if the person had at least 20 years of allowable service credit or 2.3333 percent of the salary base per year of allowable service, but not more than 46.6667 percent of the salary base, if the person has less than 20 years of allowable service credit, St. Louis Park police relief association;

(7) for each of the first 20 years of allowable service credit, .5 percent of the salary base per year of allowable service for each year of allowable service rendered before October 1, 1965, and two percent of the salary base per year of allowable service for each year of allowable service rendered after September 30, 1965, and for each year of allowable service in excess of 20 years, one percent of the salary base per year of allowable service, but not more than 52 percent of the salary base, West St. Paul firefighters relief associations;

(8) the amount calculated as provided in section 24, but not more than 50.6667 percent of the salary base, Winona fire department relief association; and

(9) the amount calculated as provided in section 24, but not more than 53.3333 percent of the salary base, Winona police relief association.

Subd. 3. [AUGMENTATION.] The deferred service pension shall not be augmented as provided in section 353.34, subdivision 3.

Sec. 28. [353B.11] [SURVIVOR BENEFITS.]

Subdivision 1. [ELIGIBILITY; SURVIVING SPOUSE BENEFIT.] (a) Except as specified in paragraph (b), (c), (d), (e), or (f), the person who survives a deceased active, deferred, or retired member, who was legally married to the member at the time of the death of the deceased member, who was legally married to the member for at least one year before the separation from active service if the deceased member was a deceased, deferred, or retired member and who was residing with the member at the time of the death of the deceased member shall be entitled to receive a surviving spouse benefit.

(b) The person who survives a deceased active, deferred, or retired member, who was legally married to the member at the time of the death of the deceased member, who was legally married to the member at the time of separation from active service if the deceased member was a deceased deferred or retired member and who was residing with the member at the time of the death of the member shall be entitled to receive a surviving spouse benefit in the case of former members of the following consolidating relief associations:

- (1) Albert Lea police relief association;*
- (2) Anoka police relief association;*
- (3) Austin firefighters relief association;*
- (4) Austin police relief association;*
- (5) Brainerd police benefit association;*
- (6) Columbia Heights police relief association;*
- (7) Crookston fire department relief association;*
- (8) Crookston police relief association;*
- (9) Fairmont police benefit association;*
- (10) Faribault police benefit association;*
- (11) Mankato fire department relief association;*
- (12) Red Wing police relief association;*
- (13) South St. Paul police relief association;*
- (14) Virginia fire department relief association;*
- (15) Virginia police relief association; and*
- (16) West St. Paul police relief association.*

(c) The person who survives a deceased active, deferred, or retired member, who was legally married to the member at the time of the death of the deceased member, and who was legally married to the member at the time of separation from active service if the deceased member was a deceased deferred or retired member shall be entitled to receive a surviving spouse benefit in the case of former members of the following consolidating relief associations:

- (1) Chisholm police relief association;*
- (2) Hibbing police relief association;*
- (3) Mankato police benefit association; and*

(4) *New Ulm police relief association.*

(d) *The person who survives a deceased active, deferred, or retired member, who was legally married to the member at the time of the death of the deceased member, who was legally married to the member for at least one year before the separation from active service if the deceased member was the recipient of a service pension or was entitled to a deferred service pension and who was residing with the member at the time of the death of the deceased member in the case of former members of the Minneapolis fire department relief association.*

(e) *The person who survives a deceased active, deferred, or retired member, who was legally married to the member at the time of the death of the deceased member, who was legally married to the member for at least three years before the separation from active service if the deceased member was a deceased, retired, or deferred member and who was residing with the member at the time of the death of the member shall be entitled to receive a surviving spouse benefit in the case of former members of the South St. Paul firefighters relief association.*

(f) *The person who survives a deceased active, deferred, or retired member who was legally married to the member at the time of the death of the deceased member, who was legally married to the member for at least one year before the separation from active service if the deceased member was a deceased, deferred, or retired member and who had not deserted the member at the time of the death of the deceased member shall be entitled to receive a surviving spouse benefit in the case of former members of the St. Paul police relief association.*

Subd. 2. [ELIGIBILITY; SURVIVING CHILD BENEFIT.] (a) *Except as specified in paragraph (b), (c), (d), (e), (f), or (g), the person who survives a deceased active, deferred, or retired member, who is the child of the deceased member and who is younger than age 18 at the time of the death of the deceased member shall be entitled to receive a surviving child benefit.*

(b) *The person who survives a deceased active, deferred, or retired member, who is the child of the deceased member, and who is younger than age 18 if the person is not a full-time student or age 22 if the person is a full-time student shall be entitled to receive a surviving child benefit in the case of former members of the following consolidating relief associations:*

- (1) *Buhl police relief association;*
- (2) *Columbia Heights fire department relief association, paid division;*
- (3) *Duluth firefighters relief association;*
- (4) *Duluth police pension association;*
- (5) *Minneapolis fire department relief association;*
- (6) *Minneapolis police relief association; and*
- (7) *St. Paul fire department relief association.*

(c) *The person who survives a deceased active, deferred, or retired member, who is the child of the deceased member and who is younger than age 16 shall be entitled to receive a surviving child benefit in the case of former members of the following consolidating relief associations:*

- (1) *Chisholm police relief association; and*

(2) *Hibbing police relief association.*

(d) *The person who survives a deceased active, deferred, or retired member, who is the child of the deceased member and who is younger than age 19 shall be entitled to receive a surviving child benefit in the case of former members of the Albert Lea firefighters relief association.*

(e) *The person who survives a deceased active, deferred, or retired member, who is the child of the deceased member and who is younger than age 18 if the person is not a full-time student or age 21 if the person is a full-time student shall be entitled to receive a surviving child benefit in the case of former members of the Crookston police relief association.*

(f) *The person who survives a deceased active, deferred, or retired member, who is the child of the deceased member, who was dependent on the deceased member and who is younger than age 18 shall be entitled to receive a surviving child benefit in the case of former members of the Red Wing police relief association.*

(g) *The person who survives a deceased active, deferred, or retired member, who is the child of the deceased member and who is younger than age 18 if the person is not a full time student or age 23 if the person is a full-time student shall be entitled to receive a surviving child benefit in the case of former members of the St. Paul police relief association.*

Subd. 3. [AMOUNT; SURVIVING SPOUSE BENEFIT.] (a) *The surviving spouse benefit shall be 30 percent of the salary base for the former members of the following consolidating relief associations:*

- (1) *Albert Lea firefighters relief association;*
- (2) *Albert Lea police relief association;*
- (3) *Anoka police relief association;*
- (4) *Austin firefighters relief association;*
- (5) *Austin police relief association;*
- (6) *Brainerd police benefit association;*
- (7) *Crookston police relief association;*
- (8) *Faribault fire department relief association; and*
- (9) *West St. Paul firefighters relief association.*

(b) *The surviving spouse benefit shall be 25 percent of the salary base for the former members of the following consolidating relief associations:*

- (1) *Chisholm police relief association;*
- (2) *Duluth firefighters relief association;*
- (3) *Duluth police pension association;*
- (4) *Fairmont police benefit association;*
- (5) *Red Wing fire department relief association;*
- (6) *South St. Paul police relief association; and*
- (7) *West St. Paul police relief association.*

(c) *The surviving spouse benefit shall be 24 percent of the salary base for the former members of the following consolidating relief associations:*

- (1) *Fridley police pension association;*
- (2) *Richfield police relief association;*
- (3) *Rochester fire department relief association;*
- (4) *Rochester police relief association;*
- (5) *Winona fire department relief association; and*
- (6) *Winona police relief association.*

(d) *The surviving spouse benefit shall be 40 percent of the salary base for the former members of the following consolidating relief associations:*

- (1) *Columbia Heights fire department relief association, paid division;*
- (2) *New Ulm police relief association;*
- (3) *Richfield fire department relief association; and*
- (4) *St. Louis Park fire department relief association.*

(e) *The surviving spouse benefit shall be \$250 per month for the former members of the following consolidating relief associations:*

- (1) *Hibbing firefighters relief association; and*
- (2) *Hibbing police relief association.*

(f) *The surviving spouse benefit shall be 23.75 percent of the salary base for the former members of the following consolidating relief associations:*

- (1) *Crystal police relief associations; and*
- (2) *Minneapolis police relief association.*

(g) *The surviving spouse benefit shall be 32 percent of the salary base for the former members of the following consolidating relief associations:*

- (1) *St. Cloud fire department relief association; and*
- (2) *St. Cloud police relief association.*

(h) *The surviving spouse benefit shall be one-half of the service pension or disability benefit which the deceased member was receiving as of the date of death, or of the service pension which the deferred member would have been receiving if the service pension had commenced as of the date of death or of the service pension which the active member would have received based on the greater of the allowable service credit of the person as of the date of death or 20 years of allowable service credit if the person would have been eligible as of the date of death, for the former members of the following consolidating relief associations:*

- (1) *Virginia fire department relief association; and*
- (2) *Virginia police relief association.*

(i) *The surviving spouse benefit shall be the following for the former members of the consolidating relief associations as indicated:*

- (1) *25.625 percent of the salary base, Bloomington police relief association;*
- (2) *72.25 percent of the salary base, Buhl police relief association;*
- (3) *50 percent of the service pension which the active member would have received based on allowable service credit to the date of death and prospective service from the date of death until the date on which the*

person would have attained the normal retirement age, 50 percent of the service pension which the deferred member would have been receiving if the service pension had commenced as of the date of death or \$175 per month if the deceased member was receiving a service pension or disability benefit as of the date of death, Chisholm firefighters relief association;

(4) two-thirds of the service pension or disability benefit which the deceased member was receiving as of the date of death, or of the service pension which the deferred member would have been receiving if the service pension had commenced as of the date of death or of the service pension which the active member would have received based on the greater of the allowable service credit of the person as of the date of death or 20 years of allowable service credit if the person would have been eligible as of the date of death, Columbia Heights police relief association;

(5) the greater of \$300 per month or one-half of the service pension or disability benefit which the deceased member was receiving as of the date of death, or of the service pension which the deferred member would have been receiving if the service pension had commenced as of the date of death or of the service pension which the active member would have received based on the allowable service credit of the person as of the date of death if the person would have been eligible as of the date of death, Crookston fire department relief association;

(6) \$100 per month, Faribault police benefit association;

(7) 60 percent of the service pension or disability benefit which the deceased member was receiving as of the date of death, or of the service pension which the deferred member would have been receiving if the service pension had commenced as of the date of death or of the service pension which the active member would have received based on the allowable service credit of the person as of the date of death if the person would have been eligible as of the date of death, Mankato fire department relief association;

(8) \$175 per month, Mankato police benefit association;

(9) 26.25 percent of the salary base, Minneapolis fire department relief association;

(10) equal to the service pension or disability benefit which the deceased member was receiving as of the date of death, or of the service pension which the deferred member would have been receiving if the service pension had commenced as of the date of death or of the service pension which the active member would have received based on the allowable service credit of the person as of the date of death if the person would have been eligible as of the date of death, Red Wing police relief association;

(11) 26.6667 percent of the salary base, St. Louis Park police relief association;

(12) 27.5 percent of the salary base, St. Paul fire department relief association;

(13) 20 percent of the salary base, St. Paul police relief association;
and

(14) 27 percent of the salary base, South St. Paul firefighters relief association.

Subd. 4. [AMOUNT; SURVIVING CHILD BENEFIT.] (a) The surviving

child benefit shall be eight percent of the salary base for the former members of the following consolidating relief associations:

- (1) Fridley police pension association;*
- (2) Red Wing fire department relief association;*
- (3) Richfield police relief association;*
- (4) Rochester fire department relief association;*
- (5) Rochester police relief association;*
- (6) St. Cloud police relief association;*
- (7) St. Louis Park police relief association;*
- (8) South St. Paul firefighters relief association;*
- (9) Winona fire department relief association; and*
- (10) Winona police relief association.*

(b) The surviving child benefit shall be \$25 per month for the former members of the following consolidating relief associations:

- (1) Anoka police relief association;*
- (2) Austin firefighters relief association;*
- (3) Austin police relief association;*
- (4) Faribault police benefit association;*
- (5) Hibbing firefighters relief association;*
- (6) Mankato police benefit association;*
- (7) South St. Paul police relief association; and*
- (8) Virginia fire department relief association.*

(c) The surviving child benefit shall be ten percent of the salary base for the former members of the following consolidating relief associations:

- (1) Albert Lea police relief association;*
- (2) Crookston police relief association;*
- (3) Duluth firefighters relief association;*
- (4) Duluth police pension association;*
- (5) Faribault fire department relief association; and*
- (6) Minneapolis fire department relief association.*

(d) The surviving child benefit shall be five percent of the salary base for the former members of the following consolidating relief associations:

- (1) Columbia Heights fire department relief association, paid division;*
- (2) St. Louis Park fire department relief association;*
- (3) St. Paul police relief association; and*
- (4) West St. Paul firefighters relief associations.*

(e) The surviving child benefit shall be \$15 per month for the former members of the following consolidating relief associations:

(1) Crookston fire department relief association;

(2) Hibbing police relief association; and

(3) West St. Paul police relief association.

(f) The surviving child benefit shall be 7.5 percent of the salary base for the former members of the following consolidating relief associations:

(1) Bloomington police relief association;

(2) Crystal police relief association; and

(3) Minneapolis police relief association.

(g) The surviving child benefit shall be the following for the former members of the consolidating relief associations as indicated:

(1) ten percent of the salary base if a surviving spouse benefit is also payable, that amount between ten percent of the salary base and 50 percent of the salary base as determined by the executive director of the public employees retirement association, based on the financial circumstances and need of the surviving child or surviving children, applied in a uniform manner, reflective to the extent practicable or determinable to the past administrative practices of the board of the consolidating relief association before the effective date of the consolidation if there is a surviving spouse but no surviving spouse benefit is also payable on account of the remarriage of the surviving spouse, or 50 percent of the salary base, payable in equal shares for more than one surviving child, if there is no surviving spouse, Albert Lea firefighters relief association;

(2) four percent of the salary base, Brainerd police benefit association;

(3) \$125 per month if a surviving spouse benefit is also payable or an amount equal to the surviving spouse benefit, payable in equal shares if there is more than one surviving child, if no surviving spouse benefit is payable, Buhl police relief association;

(4) \$15 per month, Chisholm firefighters relief association;

(5) \$125 per month, Chisholm police relief association;

(6) \$50 per month, Columbia Heights police relief association;

(7) 6.25 percent of the salary base, Fairmont police benefit association;

(8) 12.5 percent of the service pension or disability benefit which the deceased member was receiving as of the date of death, or of the service pension which the deferred member would have been receiving if the service pension had commenced as of the date of death or of the service pension which the active member would have received based on the allowable service credit of the person as of the date of death if the person would have been eligible as of the date of death, Mankato fire department relief association;

(9) \$25 per month if a surviving spouse benefit is also payable or an amount equal to the surviving spouse benefit, payable in equal shares if there is more than one surviving child, New Ulm police relief association;

(10) in an amount determined by the executive director of the public employees retirement association based on the financial circumstances and need of the surviving child or surviving children, applied in a uniform manner, reflective to the extent practicable or determinable to the past

administrative practices of the board of the consolidating relief association before the effective date of the consolidation and not more than the largest surviving child benefit amount prescribed for any other actual or potential consolidating relief association as provided in this section, Red Wing police relief association;

(11) five percent of the salary base if a surviving spouse benefit is also payable or 15 percent of the salary base if no surviving spouse benefit is payable, Richfield fire department relief association;

(12) 5.3334 percent of the salary base, St. Cloud fire department relief association;

(13) ten percent of the salary base, St. Paul fire department relief association; and

(14) \$50 per month, Virginia police relief association.

Subd. 5. [SURVIVOR BENEFIT MAXIMUM.] (a) No surviving children or surviving family maximum shall be applicable to former members of the following consolidating relief associations:

- (1) Buhl police relief association;*
- (2) Chisholm firefighters relief association;*
- (3) Chisholm police relief association;*
- (4) Hibbing firefighters relief association;*
- (5) Mankato police benefit association;*
- (6) New Ulm police relief association;*
- (7) Red Wing fire department relief association;*
- (8) Red Wing police relief association;*
- (9) St. Paul police relief association; and*
- (10) South St. Paul police relief association.*

(b) The surviving children maximum shall be 24 percent of the salary base, if a surviving spouse benefit is also payable or 48 percent of the salary base, if no surviving spouse benefit is also payable, for the former members of the following consolidating relief associations:

- (1) Fridley police pension association;*
- (2) Richfield police relief association;*
- (3) Rochester fire department relief association;*
- (4) Rochester police relief association;*
- (5) Winona fire department relief association; and*
- (6) Winona police relief association.*

(c) The surviving family maximum shall be 50 percent of the salary base for the former members of the following consolidating relief associations:

- (1) Anoka police relief association;*
- (2) Austin firefighters relief association;*
- (3) Austin police relief association;*

- (4) Duluth firefighters relief association; and
- (5) Richfield fire department relief association.

(d) The surviving family maximum shall be an amount equal to the service pension which a retiring member would have received based on 20 years of allowable service credit if the member had attained the age of at least 50 years in the case of an active member, or of the service pension which the deferred member would have been receiving if the service pension had commenced as of the date of death in the case of a deferred member, or of the service pension or disability benefit which the deceased member was receiving as of the date of death, for the former members of the following consolidating relief associations:

- (1) Columbia Heights police relief association;
- (2) Virginia fire department relief association; and
- (3) Virginia police relief association.

(e) The surviving children maximum shall be 25 percent of the salary base, if a surviving spouse benefit is also payable or 50 percent of the salary base, if no surviving spouse benefit is also payable, for the former members of the following consolidating relief associations:

- (1) Duluth police pension association; and
- (2) Fairmont police benefit association.

(f) The surviving children maximum shall be 22.5 percent of the salary base, if a surviving spouse benefit is also payable or 45 percent of the salary base, if no surviving spouse benefit is also payable, for the former members of the following consolidating relief associations:

- (1) Bloomington police relief association; and
- (2) Crystal police relief association.

(g) The surviving children maximum shall be 16 percent of the salary base, if a surviving spouse benefit is also payable or 48 percent of the salary base, if no surviving spouse benefit is also payable, for the former members of the following consolidating relief associations:

- (1) St. Cloud fire department relief association; and
- (2) St. Cloud police relief association.

(h) The surviving children maximum shall be 20 percent of the salary base, if a surviving spouse benefit is also payable or 50 percent of the salary base, if no surviving spouse benefit is also payable, for the former members of the following consolidating relief associations:

- (1) Albert Lea firefighters relief association;
- (2) Albert Lea police relief association; and
- (3) Faribault fire department relief association.

(i) The surviving family maximum shall be the following for the former members of the consolidating relief associations:

- (1) \$450 per month, Crookston police relief association;
- (2) 80 percent of the service pension or disability benefit which the deceased member was receiving as of the date of death, or of the service

pension which the deferred member would have been receiving if the service pension had commenced as of the date of death or of the service pension which the active member would have received based on the greater of the allowable service credit of the person as of the date of death or 20 years of allowable service credit if the person would have been eligible as of the date of death, Mankato fire department relief association; and

(3) 57.5 percent of the salary base, St. Paul fire department relief association.

(j) The surviving child maximum shall be the following for the former members of the consolidating relief associations:

(1) 20 percent of the top salary payable to a patrol officer, Brainerd police benefit association;

(2) ten percent of the salary base, if a surviving spouse benefit is also payable or 15 percent of the salary base, if no surviving spouse benefit is also payable, Columbia Heights fire department relief association, paid division;

(3) \$105 per month if a surviving spouse benefit is also payable or \$90 per month if no surviving spouse benefit is also payable, Crookston fire department relief association;

(4) \$125 per month, Faribault police benefit association;

(5) \$30 per month if a surviving spouse benefit is also payable or \$180 per month if no surviving spouse benefit is also payable, Hibbing police relief association;

(6) 25 percent of the salary base, if a surviving spouse benefit is also payable or 51.25 percent of the salary base, if no surviving spouse benefit is also payable, Minneapolis fire department relief association;

(7) 17.5 percent of the salary base, if a surviving spouse benefit is also payable or 40 percent of the salary base, if no surviving spouse benefit is also payable, Minneapolis police relief association;

(8) 50 percent of the salary base, St. Louis Park fire department relief association;

(9) 24 percent of the salary base, St. Louis Park police relief association;

(10) 23 percent of the salary base, if a surviving spouse benefit is also payable or 50 percent of the salary base, if no surviving spouse benefit is also payable, South St. Paul firefighters relief association;

(11) ten percent of the salary base, West St. Paul firefighters relief association; and

(12) \$30 per month if a surviving spouse benefit is also payable or \$75 per month if no surviving spouse benefit is also payable, West St. Paul police relief association.

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

(b) A surviving spouse benefit shall terminate upon the subsequent marriage of the person entitled to receive or receiving a surviving spouse benefit but shall recommence at the appropriate amount without any ret-

roactive payments in the event of the termination of the subsequent marriage for any reason for the former members of the following consolidating relief associations:

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

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

- (1) Mankato fire department relief association;
- (2) St. Louis Park fire department relief association;
- (3) South St. Paul firefighters relief association;
- (4) South St. Paul police relief association;
- (5) West St. Paul firefighters relief association; and
- (6) Winona fire department relief association.

Subd. 7. [DISCONTINUATION; SURVIVING CHILD BENEFIT.] A surviving child benefit shall terminate upon the loss of eligible surviving child status by the person previously entitled to receive or receiving a surviving child benefit.

Subd. 8. [OTHER DEATH BENEFIT COVERAGE.] Any lump sum death benefit or funeral benefit provided for in the governing benefit plan documents shall be considered to be special benefit coverage governed by section 15, subdivision 6, for the former members of the following consolidating relief associations:

- (1) Crookston fire department relief association;
- (2) Hibbing firefighters relief association;
- (3) Mankato fire department relief association;
- (4) Red Wing fire department relief association; and
- (5) Richfield fire department relief association.

Sec. 29. [353B.12] [POSTRETIREMENT BENEFIT ADJUSTMENTS.]

Subdivision 1. [SERVICE PENSION.] (a) Except as specified in paragraph (b), (c), (d), or (e), any service pension payable to a former member of a consolidating relief association shall be increased annually by the same percentage that the salary base has increased.

(b) The amount of any service pension other than any additional benefit on one-half of one percent of the salary base per year of allowable service for allowable service in excess of 25 years of service shall be increased annually by the same percentage that the salary base has increased for former members of the following consolidating relief associations:

- (1) *Austin firefighters relief association;*
- (2) *Austin police relief association;*
- (3) *Columbia Heights fire department relief association, paid division;*
- (4) *Columbia Heights police relief association;*
- (5) *St. Paul fire department relief association;*
- (6) *St. Paul police relief association;*
- (7) *South St. Paul firefighters relief association;*
- (8) *South St. Paul police relief association;*
- (9) *Virginia police relief association;*
- (10) *Winona fire department relief association; and*
- (11) *Winona police relief association.*

(c) *The amount of any service pension other than any additional benefit on one-half of one percent of the salary base per year of allowable service for allowable service in excess of 25 years of service shall be increased annually by the same percentage that the salary base has increased for former members employed before July 1, 1969, and by one-half of the dollar amount of the increase payable to former members employed before July 1, 1969, for former members employed after June 30, 1969, of the following consolidating relief associations:*

- (1) *Rochester fire department relief association; and*
- (2) *Rochester police relief association.*

(d) *The amount of any service pension shall not be subject to any annual postretirement adjustment for former members of the following consolidating relief associations:*

- (1) *Crookston fire department relief association; and*
- (2) *Crookston police relief association.*

(e) *The amount of the annual postretirement adjustment shall be the following for the former members of the consolidating relief associations as indicated:*

(1) *the amount of any service pension other than any additional benefit of one-half of one percent of the salary base per year of allowable service for allowable service in excess of 25 years of service shall be increased annually by the same percentage that the salary of a top grade firefighter has increased, Albert Lea firefighters relief association;*

(2) *the amount of any service pension shall be increased by the amount of any positive difference between the service pension payable for the month before the effective date of a postretirement increase and the amount equal to 50 percent of the salary of a first class patrol officer on the effective date of a postretirement increase, Albert Lea police relief association;*

(3) *for a service pension calculated using the top salary of a patrol officer, the service pension shall be increased by an amount equal to the percentage that the top salary of a patrol officer has increased, Brainerd police benefit association;*

(4) *the amount of any service pension shall be increased by 3.5 percent*

annually if there is any increase in the salary base, Buhl police relief association;

(5) the amount of any service pension shall be increased by three percent annually if there is any increase in the salary base, Chisholm firefighters relief association;

(6) the amount of any service pension other than any additional benefit of one-half of one percent of the salary base per year of allowable service for allowable service in excess of 25 years of service shall be increased by three percent annually, Chisholm police relief association;

(7) the amount of any service pension shall be increased by an amount equal to one-half of the percentage that the salary base has increased, Faribault police benefit association;

(8) the amount of any service pension based on at least 20 years of allowable service shall be increased by the same percentage that the salary base has increased and the amount of any service pension based on less than 20 years of allowable service shall be increased by the percentage that the salary base has increased or by three percent, whichever is less, annually, Fridley police pension association;

(9) the amount of any service pension shall be increased by one-half of the dollar amount of any increase in the salary base, Hibbing police relief association;

(10) for a service pension calculated using the salary of the highest salaried patrol officer, the service pension other than any additional benefit of one-half of one percent of final salary for the first three years of allowable service in excess of 20 years of allowable service shall be increased by the same percentage that the salary of the highest salaried patrol officer has increased, New Ulm police relief association;

(11) the amount of any service pension other than any additional benefit of one-half of one percent of the salary base per year of allowable service for allowable service in excess of 25 years of allowable service shall be increased by the same percentage that the consumer price index for all items for urban wage earners published by the federal Department of Labor, Bureau of Labor Statistics, has increased over the previous 12-month period, Red Wing fire department relief association;

(12) the amount of any service pension shall be increased by the same percentage that the consumer price index for all items for urban wage earners published by the federal Department of Labor, Bureau of Labor Statistics, has increased over the previous 12-month period, Red Wing police relief association;

(13) the amount of any service pension other than any additional benefit of one-half of one percent of the salary base per year of allowable service for allowable service in excess of 25 years of allowable service shall be increased by the same percentage that the salary base has increased or by 3.5 percent, whichever is less, annually, Virginia fire department relief association; and

(14) the amount of any service pension payable to a person who has attained the age of at least 55 years shall be increased by the same percentage that the salary base has increased or by 3.5 percent, whichever is less, annually, West St. Paul police relief association.

Subd. 2. [DEFERRED SERVICE PENSION.] (a) Except as specified in paragraph (b), any deferred service pension payable to a former member of a consolidating relief association shall be credited annually with an increase of the same percentage or amount that a service pension is to be increased as provided in subdivision 1. The amount of any postretirement increases credited during the period of deferral shall be added to the amount of the service pension payable as of the date of the termination of employment as a police officer or firefighter, whichever applies, and payable as of the date of the initial service pension payment as provided in section 27.

(b) Any deferred service pension shall not be subject to any postretirement adjustment for former members of the following consolidating relief associations:

- (1) Crookston fire department relief association; and*
- (2) Crookston police relief association.*

Subd. 3. [DISABILITY BENEFIT.] (a) Except as specified in paragraph (b), (c), and (d), any disability benefit payable to a former member of a consolidating relief association shall be increased annually by the same percentage or amount that a service pension is to be increased as provided in subdivision 1.

(b) The amount of any disability benefit shall not be subject to any annual postretirement adjustment for former members of the following consolidating relief associations:

- (1) Crookston fire department relief association;*
- (2) Crookston police relief association; and*
- (3) Hibbing firefighters relief association.*

(c) The amount of any disability benefit shall be increased annually by the same percentage that the salary of the position which the disabled person held at the time of the disability has increased over the previous 12-month period for former members of the Columbia Heights police relief association.

(d) The amount of any disability benefit shall be increased annually by the amount of any positive difference between the disability benefit payable for the month before the effective date of a postretirement increase and the amount equal to 50 percent of the salary of a first class patrol officer on the effective date of a postretirement increase for former members of the Albert Lea police relief association.

Subd. 4. [SURVIVING SPOUSE BENEFIT.] (a) Except as specified in paragraph (b), (c), and (d), any surviving spouse benefit payable on behalf of a deceased former member of a consolidating relief association shall be increased annually by the same percentage or amount that a service pension is to be increased as provided in subdivision 1.

(b) The amount of any surviving spouse benefit shall not be subject to any annual postretirement adjustment for former members of the following consolidating relief associations:

- (1) Buhl police relief association;*
- (2) Chisholm firefighters relief association;*

- (3) *Chisholm police relief association;*
- (4) *Crookston fire department relief association;*
- (5) *Crookston police relief association;*
- (6) *Faribault police benefit association;*
- (7) *Hibbing firefighters relief association;*
- (8) *Hibbing police relief association; and*
- (9) *Mankato police benefit association.*

(c) *The amount of any surviving spouse benefit shall be increased annually by the percentage that the salary base has increased over the previous 12-month period for former members of the West St. Paul police relief association.*

(d) *The amount of any surviving spouse benefit shall be increased annually by the amount of any positive difference between the surviving spouse benefit payable for the month before the effective date of a post-retirement increase and the amount equal to 30 percent of the salary of a first class patrol officer on the effective date of a post-retirement increase for former members of the Albert Lea police relief association.*

Subd. 5. [SURVIVING CHILD BENEFIT.] (a) *Except as specified in paragraph (b), (c), and (d), any surviving child benefit payable on behalf of a former member of a consolidating relief association shall be increased annually by the same percentage or amount that a service pension is to be increased as provided in subdivision 1.*

(b) *The amount of any surviving child benefit shall not be subject to any annual postretirement adjustment for former members of the following consolidating relief associations:*

- (1) *Anoka police relief association;*
- (2) *Austin firefighters relief association;*
- (3) *Austin police relief association;*
- (4) *Buhl police relief association;*
- (5) *Chisholm firefighters relief association;*
- (6) *Chisholm police relief association;*
- (7) *Columbia Heights police relief association;*
- (8) *Crookston fire department relief association;*
- (9) *Crookston police relief association;*
- (10) *Faribault police benefit association;*
- (11) *Hibbing firefighters relief association;*
- (12) *Hibbing police relief association;*
- (13) *Mankato police benefit association;*
- (14) *Red Wing police relief association;*
- (15) *South St. Paul police relief association;*
- (16) *Virginia fire department relief association;*

(17) Virginia police relief association; and

(18) West St. Paul police relief association.

(c) The amount of any surviving child benefit shall be subject to an annual postretirement adjustment only if no surviving spouse benefit is also payable and the annual adjustment shall be the same percentage or amount that a service pension is to be increased as provided in subdivision 1 for former members of the New Ulm police relief association.

(d) The amount of any surviving child benefit shall be increased annually by the amount of any positive difference between the surviving child benefit payable for the month before the effective date of a postretirement increase and the amount equal to ten percent of the salary of a first class patrol officer on the effective date of a postretirement increase for former members of the Albert Lea police relief association.

Subd. 6. [FAMILY MAXIMUM BENEFIT.] (a) Except as specified in paragraph (b), any family maximum benefit payable on behalf of a former member of a consolidating relief association shall be increased as provided for its component surviving spouse or surviving child benefits.

(b) The amount of any family maximum benefit shall be increased annually by the amount of any positive difference between the family maximum benefit payable for the month before the effective date of a postretirement increase and the amount equal to 50 percent of the salary of a first class patrol officer on the effective date of a postretirement increase for former members of the Albert Lea police relief association.

Subd. 7. [EFFECTIVE DATE FOR POSTRETIREMENT INCREASES.] Any postretirement increases as provided in this section shall occur once per calendar year. If the postretirement increase is based on the increase in a base salary amount, the postretirement increase shall be payable as of the first of the month next following the effective date of the triggering salary increase. If more than one salary increase occurs in a calendar year, only one postretirement increase shall take effect in that calendar year and the next succeeding postretirement increase shall take into account any additional salary increases which occurred since the immediately previous postretirement increase and shall occur on the date occurring 12 months after the date of the immediately previous postretirement increase or the first of the month next following the effective date of any triggering salary increase in that calendar year, whichever occurs first. If the increase in the base salary amount upon which the postretirement increase is based includes retroactive payments to an earlier date, the applicable postretirement increase may also be payable retroactive to that date. If the postretirement increase is based on the consumer price index or is a set annual percentage amount, the postretirement increase shall be payable as of the first day of February.

Sec. 30. [353B.13] [OTHER BENEFIT COVERAGE.]

(a) A person who is a former member of the New Ulm police relief association, who retired from the New Ulm police department after October 15, 1985, and who is receiving a service pension after the effective date of consolidation as provided in section 13, shall be entitled to receive a supplemental benefit of \$80 per month for each month following the date of retirement until the last day of the month in which the person attains the age of 65 years.

(b) *The payment of the premiums for medical and dental insurance coverage and the payment of a lump sum amount at retirement for former members of the St. Cloud fire department relief association and the payment of the premiums for medical insurance coverage and the payment of a lump sum amount at retirement for former members of the St. Cloud police relief association as provided for in the governing benefit plan documents shall be considered to be special benefit coverage governed by section 15, subdivision 6.*

(c) *A person who is a former member of the St. Paul fire department relief association who is unable to perform normally assigned fire department service due to a medically determinable physical or mental illness or injury and who is removed from the fire department payroll, upon application, until recovery, or for a period of 90 days or for a period of 150 days upon a showing of need and a medical report indicating a reasonable prognosis for recovery due to the extended period, whichever occurs first, shall be entitled to a sick relief benefit for each day of that inability, payable monthly, in an amount of 1.5625 percent of the salary base per day.*

Sec. 31. [353B.14] [DISPUTE OVER BENEFIT AMOUNTS OR PLAN PROVISIONS.]

In the event of any dispute by or on behalf of any former member of a consolidating relief association after the effective date of consolidation over the amount of a benefit to which the person may be entitled, the proper interpretation of a provision of sections 18 to 31, or the conformity of the provisions of sections 18 to 31 to the provisions of the benefit plan of the consolidating relief association in effect immediately before the date on which the consolidation process was initiated, the dispute shall be submitted in writing to the legislative commission on pensions and retirement by the person who is a party to the dispute or by the executive director of the public employees retirement association. The legislative commission on pensions and retirement shall review the dispute as part of its deliberations on proposed or pending retirement legislation and shall make its recommendation on the resolution of the dispute, if any, to the appropriate committees of the senate and house of representatives with jurisdiction over public employee pension matters in the form of the necessary legislation amending the provisions of sections 18 to 31, which legislation shall include retroactivity of any increase in a benefit amount or any omitted benefit amount to the date on which the benefit subject to dispute accrued or would have accrued.

Sec. 32. [356.615] [LIMITATION ON USE OF PUBLIC PENSION PLAN ASSETS.]

(a) *Money held by or credited to a public pension plan as assets, including employer and employee contributions, state aid, appropriations from the state or a governmental subdivision, and accrued earnings on investments, constitutes a dedicated fund. The dedicated fund may be used exclusively to pay retirement annuities, service pensions, disability benefits, survivor benefits, refunds of contributions, or other benefits provided under the benefit plan document or documents governing the public pension plan and to pay reasonable administrative expenses approved by the governing board of the public pension plan or by another appropriate authority. No assets of a public pension plan may be loaned or transferred to the state or a governmental subdivision or be used to fund an unfunded*

actuarial accrued liability in another public pension plan or fund, whether or not the plan providing the assets consolidates or has consolidated with the plan receiving the assets. Nothing in this section prohibits a public pension plan or the state board of investment from investing assets of a plan as authorized by law, including the investment of the assets of public pension plans by the state board of investment in a commingled investment fund.

(b) A public pension plan for purposes of this section means a pension plan or fund specified in section 356.20, subdivision 2, or 356.30, subdivision 3, or a retirement or pension plan or fund, including a supplemental retirement plan or fund, established, maintained, or supported by a governmental subdivision or public body whose revenues are derived from taxation, fees, assessments, or other public sources.

Sec. 33. [TRANSITIONAL PROVISION.]

Before the August 1 which occurs immediately after the effective date of sections 8 to 17, the commission shall consider and adopt any necessary amendments and additions to the standards for actuarial work required under section 3.85, subdivision 11, to appropriately provide for the preparation of any actuarial calculations or valuations required as provided in sections 12, subdivision 1; 15, subdivision 6; and 16, subdivision 8.

Sec. 34. [EFFECTIVE DATE.]

Sections 1 to 33 are effective the day following final enactment."

Delete the title and insert:

"A bill for an act relating to retirement; police and salaried firefighters relief associations; authorizing the voluntary consolidation of local relief associations with the public employees police and fire fund; authorizing the individual election of applicable benefit coverage upon consolidation; amending Minnesota Statutes 1986, sections 353.01, subdivisions 2b, 10, and 16; 353.271; 353.64, subdivision 1; and 353.65, subdivision 1; proposing coding for new law in Minnesota Statutes, chapters 353 and 356; proposing coding for new law as Minnesota Statutes, chapters 353A and 353B."

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

SECOND READING OF SENATE BILLS

S.F. Nos. 69, 915, 785, 236, 1007, 1279, 830, 446, 577, 896, 321, 537, 1050, 1222, 175, 962, 4, 1057, 759, 988, 1174, 1197, 1165, 1206, 1428, 1372, 855, 1150, 980, 281, 1033, 176, 929 and 317 were read the second time.

SECOND READING OF HOUSE BILLS

H.F. Nos. 489, 357, 345, 502, 269, 755, 1049, 567, 1073, 946, 340, 653, 505 and 102 were read the second time.

MOTIONS AND RESOLUTIONS

Mr. Pogemiller moved that the name of Mr. Marty be added as a co-author to S.F. No. 757. The motion prevailed.

Mr. Dicklich moved that the name of Ms. Berglin be added as a co-author to S.F. No. 1197. The motion prevailed.

Mr. Luther moved that the name of Mr. Marty be added as a co-author to S.F. No. 1204. The motion prevailed.

Mr. Stumpf moved that the name of Mr. Merriam be added as a co-author to S.F. No. 1240. The motion prevailed.

Mr. Dicklich moved that the name of Mr. Marty be added as a co-author to S.F. No. 1367. The motion prevailed.

Mr. Pehler moved that the name of Mr. Wegscheid be added as a co-author to S.F. No. 1400. The motion prevailed.

Mr. Beckman moved that the names of Messrs. Marty and Wegscheid be added as co-authors to S.F. No. 1419. The motion prevailed.

Mr. Cohen moved that the names of Ms. Piper and Mr. Wegscheid be added as co-authors to S.F. No. 1422. The motion prevailed.

Mr. Dahl moved that the name of Mr. Marty be added as a co-author to S.F. No. 1430. The motion prevailed.

Mr. Ramstad introduced—

Senate Resolution No. 56: A Senate resolution congratulating the Trojans boys basketball team from Wayzata High School for being Lake Blue Conference co-champions in 1986-1987.

Referred to the Committee on Rules and Administration.

Mr. Pehler introduced—

Senate Resolution No. 57: A Senate resolution congratulating the St. Cloud State University Huskies Hockey Team for winning Third Place in the National Collegiate Athletic Association Men's Division III.

Referred to the Committee on Rules and Administration.

Ms. Peterson, D.C. moved that her name be stricken as chief author, shown as a co-author, and the name of Mr. Moe, D.M. be added as chief author to S.F. No. 373. The motion prevailed.

Mr. Merriam moved that the name of Mr. Wegscheid be added as a co-author to S.F. No. 1420. The motion prevailed.

Ms. Peterson, D.C. moved that S.F. No. 451, No. 19 on General Orders, be stricken and re-referred to the Committee on Finance. The motion prevailed.

CALENDAR

H.F. No. 28: A bill for an act relating to financial institutions; extending the EFT law to terminals located on the premises of a financial institution; providing options for a financial institution relating to the availability of an electronic financial terminal for other financial institutions; permitting certain advertising relating to an electronic financial terminal; amending Minnesota Statutes 1986, sections 47.61, subdivision 3; 47.63; 47.64, subdivisions 1, 3, and 4; and 47.67.

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 63 and nays 0, as follows:

Those who voted in the affirmative were:

Adkins	Dahl	Jude	Metzen	Samuelson
Anderson	Davis	Knaak	Moe, D.M.	Schmitz
Beckman	DeCramer	Knutson	Moe, R.D.	Solon
Belanger	Dicklich	Kroening	Morse	Spear
Benson	Diessner	Laidig	Novak	Storm
Berg	Frank	Langseth	Olson	Stumpf
Berglin	Frederick	Lantry	Pehler	Taylor
Bernhagen	Frederickson, D.J.	Larson	Peterson, D.C.	Vickerman
Bertram	Frederickson, D.R.	Luther	Peterson, R.W.	Waldorf
Brandl	Freeman	Marty	Piper	Wegscheid
Brataas	Gustafson	McQuaid	Pogemiller	Willet
Chmielewski	Hughes	Mehrkens	Ramstad	
Cohen	Johnson, D.J.	Merriam	Renneke	

So the bill passed and its title was agreed to.

S.F. No. 250: A bill for an act relating to game and fish; requiring a firearms safety certificate to hunt big game with firearms and by archery; amending Minnesota Statutes 1986, sections 97A.451, subdivision 3; and 97B.015, subdivision 5; proposing coding for new law in Minnesota Statutes, chapter 97B.

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 61 and nays 0, as follows:

Those who voted in the affirmative were:

Anderson	Davis	Knaak	Moe, D.M.	Schmitz
Beckman	DeCramer	Knutson	Moe, R.D.	Solon
Belanger	Dicklich	Kroening	Morse	Spear
Benson	Diessner	Laidig	Novak	Storm
Berg	Frank	Langseth	Olson	Stumpf
Berglin	Frederick	Lantry	Pehler	Taylor
Bernhagen	Frederickson, D.J.	Larson	Peterson, D.C.	Waldorf
Bertram	Frederickson, D.R.	Luther	Peterson, R.W.	Wegscheid
Brandl	Freeman	Marty	Piper	Willet
Brataas	Gustafson	McQuaid	Pogemiller	
Chmielewski	Hughes	Mehrkens	Ramstad	
Cohen	Johnson, D.J.	Merriam	Renneke	
Dahl	Jude	Metzen	Samuelson	

So the bill passed and its title was agreed to.

S.F. No. 1015: A bill for an act relating to public safety; regulating boilers and their operation; amending Minnesota Statutes 1986, sections 183.375, subdivision 2; 183.411, by adding a subdivision; 183.42; 183.545, subdivision 4; and 183.56; repealing Minnesota Statutes 1986, section 183.545, subdivision 5.

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

The question was taken on the passage of the bill.

The roll was called, and there were yeas 62 and nays 0, as follows:

Those who voted in the affirmative were:

Anderson	Davis	Knaak	Moe, D.M.	Schmitz
Beckman	DeCramer	Knutson	Moe, R.D.	Solon
Belanger	Dicklich	Kroening	Morse	Spear
Benson	Diessner	Laidig	Novak	Storm
Berg	Frank	Langseth	Olson	Stumpf
Berglin	Frederick	Lantry	Pehler	Taylor
Bernhagen	Frederickson, D.J.	Larson	Peterson, D.C.	Vickerman
Bertram	Frederickson, D.R.	Luther	Peterson, R.W.	Waldorf
Brandl	Freeman	Marty	Piper	Wegscheid
Brataas	Gustafson	McQuaid	Pogemiller	Willet
Chmielewski	Hughes	Mehrkins	Ramstad	
Cohen	Johnson, D.J.	Merriam	Renneke	
Dahl	Jude	Metzen	Samuelson	

So the bill passed and its title was agreed to.

S.F. No. 737: A bill for an act relating to health; requiring the board of medical examiners to release certain information about disciplinary investigations and proceedings; amending Minnesota Statutes 1986, section 147.01, 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 62 and nays 0, as follows:

Those who voted in the affirmative were:

Adkins	Dahl	Jude	Moe, D.M.	Schmitz
Anderson	Davis	Knaak	Moe, R.D.	Solon
Beckman	DeCramer	Kroening	Morse	Spear
Belanger	Dicklich	Laidig	Novak	Storm
Benson	Diessner	Langseth	Olson	Stumpf
Berg	Frank	Lantry	Pehler	Taylor
Berglin	Frederick	Larson	Peterson, D.C.	Vickerman
Bernhagen	Frederickson, D.J.	Luther	Peterson, R.W.	Waldorf
Bertram	Frederickson, D.R.	Marty	Piper	Wegscheid
Brandl	Freeman	McQuaid	Pogemiller	Willet
Brataas	Gustafson	Mehrkins	Ramstad	
Chmielewski	Hughes	Merriam	Renneke	
Cohen	Johnson, D.J.	Metzen	Samuelson	

So the bill passed and its title was agreed to.

H.F. No. 554: A bill for an act relating to natural resources; changing certain provisions relating to state park motor vehicle permits; amending Minnesota Statutes 1986, section 85.05, subdivision 2.

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 63 and nays 0, as follows:

Those who voted in the affirmative were:

Adkins	Dahl	Jude	Metzen	Samuelson
Anderson	Davis	Knaak	Moe, D.M.	Schmitz
Beckman	DeCramer	Knutson	Moe, R.D.	Solon
Belanger	Dicklich	Kroening	Morse	Spear
Benson	Diessner	Laidig	Novak	Storm
Berg	Frank	Langseth	Olson	Stumpf
Berglin	Frederick	Lantry	Pehler	Taylor
Bernhagen	Frederickson, D.J.	Larson	Peterson, D.C.	Vickerman
Bertram	Frederickson, D.R.	Luther	Peterson, R.W.	Waldorf
Brandl	Freeman	Marty	Piper	Wegscheid
Brataas	Gustafson	McQuaid	Pogemiller	Willet
Chmielewski	Hughes	Mehrkins	Ramstad	
Cohen	Johnson, D.J.	Merriam	Renneke	

So the bill passed and its title was agreed to.

S.F. No. 916: A bill for an act relating to workers' compensation; providing a permanent partial disability rating for certain losses; proposing coding for new law in Minnesota Statutes, chapter 176.

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 63 and nays 0, as follows:

Those who voted in the affirmative were:

Adkins	Dahl	Jude	Metzen	Samuelson
Anderson	Davis	Knaak	Moe, D.M.	Schmitz
Beckman	DeCramer	Knutson	Moe, R.D.	Solon
Belanger	Dicklich	Kroening	Morse	Spear
Benson	Diessner	Laidig	Novak	Storm
Berg	Frank	Langseth	Olson	Stumpf
Berglin	Frederick	Lantry	Pehler	Taylor
Bernhagen	Frederickson, D.J.	Larson	Peterson, D.C.	Vickerman
Bertram	Frederickson, D.R.	Luther	Peterson, R.W.	Waldorf
Brandl	Freeman	Marty	Piper	Wegscheid
Brataas	Gustafson	McQuaid	Pogemiller	Willet
Chmielewski	Hughes	Mehrken	Ramstad	
Cohen	Johnson, D.J.	Merriam	Renneke	

So the bill passed and its title was agreed to.

S.F. No. 494: A bill for an act relating to the Duluth airport authority; providing that authority employees hired after a certain date are not covered by any civil service system.

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

The question was taken on the passage of the bill.

The roll was called, and there were yeas 59 and nays 2, as follows:

Those who voted in the affirmative were:

Adkins	Dahl	Johnson, D.J.	Metzen	Samuelson
Anderson	Davis	Jude	Moe, D.M.	Schmitz
Beckman	DeCramer	Knaak	Morse	Solon
Benson	Dicklich	Knutson	Novak	Spear
Berg	Diessner	Laidig	Olson	Storm
Berglin	Frank	Langseth	Pehler	Stumpf
Bernhagen	Frederick	Lantry	Peterson, D.C.	Taylor
Bertram	Frederickson, D.J.	Larson	Peterson, R.W.	Vickerman
Brandl	Frederickson, D.R.	Luther	Piper	Waldorf
Brataas	Freeman	Marty	Pogemiller	Wegscheid
Chmielewski	Gustafson	McQuaid	Ramstad	Willet
Cohen	Hughes	Mehrken	Renneke	

Messrs. Kroening and Merriam voted in the negative.

So the bill passed and its title was agreed to.

S.F. No. 793: A bill for an act relating to commerce; consumer protection; requiring the repair, refund, or replacement of new motor vehicles under certain circumstances; prescribing certain arbitration mechanisms for all automobile manufacturers doing business and offering express warranties on their vehicles sold in Minnesota; amending Minnesota Statutes 1986, section 325F665.

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 63 and nays 0, as follows:

Those who voted in the affirmative were:

Adkins	Dahl	Jude	Metzen	Samuelson
Anderson	Davis	Knaak	Moe, D.M.	Schmitz
Beckman	DeCramer	Knutson	Moe, R.D.	Solon
Belanger	Dicklich	Kroening	Morse	Spear
Benson	Diessner	Laidig	Novak	Storm
Berg	Frank	Langseth	Olson	Stumpf
Berglin	Frederick	Lantry	Pehler	Taylor
Bernhagen	Frederickson, D.J.	Larson	Peterson, D.C.	Vickerman
Bertram	Frederickson, D.R.	Luther	Peterson, R.W.	Waldorf
Brandl	Freeman	Marty	Piper	Wegscheid
Brataas	Gustafson	McQuaid	Pogemiller	Willet
Chmielewski	Hughes	Mehrkens	Ramstad	
Cohen	Johnson, D.J.	Merriam	Renneke	

So the bill passed and its title was agreed to.

H.F. No. 469: A bill for an act relating to food licenses; regulating certain vending machine inspection fees; amending Minnesota Statutes 1986, section 28A.09, subdivision 1.

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 4, as follows:

Those who voted in the affirmative were:

Adkins	Cohen	Hughes	Metzen	Samuelson
Anderson	Dahl	Johnson, D.J.	Moe, D.M.	Schmitz
Beckman	Davis	Jude	Moe, R.D.	Solon
Belanger	DeCramer	Knaak	Morse	Storm
Benson	Dicklich	Kroening	Novak	Stumpf
Berg	Diessner	Laidig	Olson	Taylor
Berglin	Frank	Langseth	Pehler	Vickerman
Bernhagen	Frederick	Lantry	Peterson, D.C.	Waldorf
Bertram	Frederickson, D.J.	Larson	Peterson, R.W.	Wegscheid
Brandl	Frederickson, D.R.	Marty	Piper	Willet
Brataas	Freeman	McQuaid	Pogemiller	
Chmielewski	Gustafson	Mehrkens	Ramstad	

Messrs. Knutson, Luther, Merriam and Spear voted in the negative.

So the bill passed and its title was agreed to.

CONSENT CALENDAR

S.F. No. 1349: A bill for an act relating to state departments and agencies; renaming the division of emergency services; amending Minnesota Statutes 1986, section 12.04.

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

The question was taken on the passage of the bill.

The roll was called, and there were yeas 60 and nays 2, as follows:

Those who voted in the affirmative were:

Adkins	Cohen	Hughes	Mehrkens	Pogemiller
Anderson	Dahl	Johnson, D.J.	Merriam	Ramstad
Beckman	Davis	Jude	Metzen	Renneke
Belanger	DeCramer	Knaak	Moe, D.M.	Samuelson
Benson	Dicklich	Knutson	Moe, R.D.	Schmitz
Berg	Diessner	Laidig	Morse	Spear
Berglin	Frank	Langseth	Novak	Storm
Bernhagen	Frederick	Lantry	Olson	Stumpf
Bertram	Frederickson, D.J.	Larson	Pehler	Taylor
Brandl	Frederickson, D.R.	Luther	Peterson, D.C.	Vickerman
Brataas	Freeman	Marty	Peterson, R.W.	Wegscheid
Chmielewski	Gustafson	McQuaid	Piper	Willett

Messrs. Kroening and Waldorf voted in the negative.

So the bill passed and its title was agreed to.

GENERAL ORDERS

The Senate resolved itself into a Committee of the Whole, with Mr. Hughes in the chair.

After some time spent therein, the committee arose, and Mr. Hughes reported that the committee had considered the following:

S.F. No. 341, which the committee recommends to pass with the following amendments offered by Mrs. Lantry:

Page 13, line 18, delete the new language

Page 13, delete lines 19 to 21

Page 13, line 22, delete "*equipment parts.*"

The motion prevailed. So the amendment was adopted.

Mrs. Lantry then moved to amend S.F. No. 341 as follows:

Page 10, delete lines 12 to 15 and insert:

"(7) requiring as a condition of payment of a claim that repairs to any damaged vehicle must be made by a particular contractor or repair shop or that parts, other than window glass, must be replaced with parts other than original equipment parts;"

Page 13, line 23, after "*used*" insert "*, other than window glass.*"

Page 13, line 36, after "*parts*" insert "*, other than window glass.*"

Page 14, line 35, after "*parts*" insert "*, other than window glass.*"

The motion prevailed. So the amendment was adopted.

On motion of Mr. Moe, R.D., the report of the Committee of the Whole, as kept by the Secretary, was adopted.

INTRODUCTION AND FIRST READING OF SENATE BILLS

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

Messrs. DeCramer; Vickerman; Frederickson, D.J. and Frederickson, D.R. introduced—

S.F. No. 1463: A bill for an act relating to veterans; requiring the commissioner of veterans affairs to establish a veterans outreach center; au-

thorizing the commissioner to establish a veterans home; providing for the operation of the center and home; appropriating money; proposing coding for new law in Minnesota Statutes, chapters 196 and 198.

Referred to the Committee on Veterans.

Mr. Storm introduced—

S.F. No. 1464: A bill for an act relating to education; transferring certain land from the Richfield school district to the Edina school district.

Referred to the Committee on Education.

Mr. Pogemiller, Ms. Peterson, D.C.; Mr. Spear, Ms. Reichgott and Mr. Mehrkens introduced—

S.F. No. 1465: A bill for an act relating to education; establishing a pilot truancy prevention program; appropriating money; proposing coding for new law in Minnesota Statutes, chapter 124.

Referred to the Committee on Education.

Mr. Renneke introduced—

S.F. No. 1466: A bill for an act relating to agriculture; extending certain benefits under the family farm security act; amending Minnesota Statutes 1986, section 41.57, subdivision 4.

Referred to the Committee on Agriculture.

Messrs. Pehler and Purfeerst introduced—

S.F. No. 1467: A bill for an act relating to retirement; inclusion of librarians in the correctional officer's retirement plan; amending Minnesota Statutes 1986, section 352.91, subdivision 2.

Referred to the Committee on Governmental Operations.

Messrs. Pogemiller and Dahl introduced—

S.F. No. 1468: A bill for an act relating to state government; creating an international music and communications arts center task force; appropriating money.

Referred to the Committee on Economic Development and Housing.

Messrs. Pogemiller and Stumpf introduced—

S.F. No. 1469: A bill for an act relating to education; changing licensing requirements for registered barbers and registered apprentice barbers; amending Minnesota Statutes 1986, sections 154.05; 154.07; 154.09; and 154.18.

Referred to the Committee on Commerce.

Mr. Cohen introduced—

S.F. No. 1470: A bill for an act relating to elections; changing precinct caucus dates and procedures; changing the date of the state primary; amending Minnesota Statutes 1986, sections 202A.14, subdivision 1; 202A.18,

subdivision 2; 204B.21, subdivision 1; 204B.33; and 204D.03, subdivision 1.

Referred to the Committee on Elections and Ethics.

Mr. Taylor introduced—

S.F. No. 1471: A bill for an act relating to the city of Mankato; permitting the establishment of special service districts; providing taxing and other authority.

Referred to the Committee on Local and Urban Government.

Mr. Spear introduced—

S.F. No. 1472: A bill for an act relating to traffic regulations; requiring certain persons convicted of DWI or a DWI-related offense to undergo chemical use assessment; imposing an assessment on persons convicted of DWI for the purpose of financing these assessments; appropriating money; amending Minnesota Statutes 1986, sections 169.121, by adding a subdivision; 169.124; 169.125; and 169.126.

Referred to the Committee on Judiciary.

Messrs. Samuelson, Bertram and Davis introduced—

S.F. No. 1473: A bill for an act relating to Morrison county; authorizing the board of county commissioners to levy a tax for the building fund.

Referred to the Committee on Local and Urban Government.

Mr. Samuelson introduced—

S.F. No. 1474: A bill for an act relating to human services; creating a department of state institutions and medical services to administer human services facilities and medical programs; proposing coding for new law as Minnesota Statutes, chapter 256G.

Referred to the Committee on Health and Human Services.

Mr. Bertram introduced—

S.F. No. 1475: A bill for an act relating to taxation; requiring a refund of certain taxes paid on property located in Stearns county.

Referred to the Committee on Taxes and Tax Laws.

Mr. Johnson, D.J. introduced—

S.F. No. 1476: A bill for an act relating to education; providing options for swimming classes in public schools; proposing coding for new law in Minnesota Statutes, chapter 126.

Referred to the Committee on Education.

Messrs. Diessner, Kroening and Mrs. Brataas introduced—

S.F. No. 1477: A bill for an act relating to workers' compensation; regulating appointments to the workers' compensation court of appeals; amending Minnesota Statutes 1986, section 175A.01, subdivision 1.

Referred to the Committee on Employment.

Mr. Spear introduced—

S.F. No. 1478: A bill for an act relating to adoption; requiring certain notifications to parents placing a child for adoption and to proposed adoptive parents; requiring a waiting period for adoption by persons whose parental rights to another child have been terminated; specifying circumstances that do not constitute good cause for terminating parental rights; amending Minnesota Statutes 1986, sections 259.23, subdivision 2; 259.24, subdivision 5; 259.25, subdivision 1; 259.27, by adding a subdivision; and 260.221; proposing coding for new law in Minnesota Statutes, chapter 259.

Referred to the Committee on Judiciary.

Mr. Luther introduced—

S.F. No. 1479: A bill for an act relating to economic development; establishing the Minnesota council on quality and productivity and providing for its powers and duties; appropriating money.

Referred to the Committee on Economic Development and Housing.

RECESS

Mr. Moe, R.D. moved that the Senate do now recess until immediately after the Joint Convention. The motion prevailed.

The Senate reconvened at the proper time.

APPOINTMENTS

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

S.F. No. 38: Messrs. Spear, Luther and Anderson.

S.F. No. 397: Ms. Peterson, D.C.; Messrs. Luther and Laidig.

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

MEMBERS EXCUSED

Messrs. Johnson, D.E.; Lessard and Purfeerst were excused from the Session of today. Mr. Knaak was excused from the Session of today at 12:50 p.m. Ms. Reichgott was excused from the Session of today from 12:15 to 12:45 p.m.

ADJOURNMENT

Mr. Moe, R.D. moved that the Senate do now adjourn until 2:00 p.m., Monday, April 20, 1987. The motion prevailed.

Patrick E. Flahaven, Secretary of the Senate