

THIRTY-EIGHTH DAY

St. Paul, Minnesota, Monday, April 27, 1987

The Senate met at 2:00 p.m. and was called to order by the President.

CALL OF THE SENATE

Mrs. Lantry 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. Richard Erickson.

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

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

The President declared a quorum present.

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

MESSAGES FROM THE HOUSE

Mr. President:

I have the honor to announce the passage by the House of the following Senate File, herewith returned: S.F. No. 793.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned April 23, 1987

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. 94: A bill for an act relating to public health; requiring an

itemized billing for hearing aid repairs; amending Minnesota Statutes 1986, section 145.43, by adding a subdivision.

Senate File No. 94 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned April 23, 1987

Mr. Davis moved that the Senate do not concur in the amendments by the House to S.F. No. 94, and that a Conference Committee of 3 members be appointed by the Subcommittee on Committees on the part of the Senate, to act with a like Conference Committee to be appointed on the part of the House. The motion prevailed.

Mr. President:

I have the honor to announce the passage by the House of the following House Files, herewith transmitted: H.F. Nos. 85, 466, 487, 242, 945 and 949.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted April 23, 1987

FIRST READING OF HOUSE BILLS

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

H.F. No. 85: A bill for an act relating to consumer protection; requiring certain disclosures in sales of used motor vehicles; regulating new and used motor vehicle licenses; providing certain standards in applications for certificates of title; requiring certain disclosures upon the transfer of a motor vehicle; amending Minnesota Statutes 1986, sections 168.27, subdivisions 1, 2, 3, 4, 8, 10, 12, and 24; 169.57, by adding a subdivision; 325E.0951, by adding a subdivision; 325G.18; and 336.2-316; proposing coding for new law in Minnesota Statutes, chapters 168 and 168A.

Referred to the Committee on Commerce.

H.F. No. 466: A bill for an act relating to commerce; clarifying unregulated sales of eyeglasses; amending Minnesota Statutes 1986, section 148.56, subdivision 3.

Referred to the Committee on Rules and Administration for comparison with S.F. No. 1372, now on General Orders.

H.F. No. 487: A bill for an act relating to commerce; regulating membership camping practices; prohibiting certain advertising practices; establishing escrow requirements; regulating subdivided land sales practices; prohibiting certain advertising practices; amending Minnesota Statutes 1986, sections 82A.02, subdivisions 2, 10, and 19; 82A.04, subdivision 2; 82A.09, by adding a subdivision; 82A.11, subdivision 3; and 82A.24, subdivisions 3 and 6; proposing coding for new law in Minnesota Statutes, chapters 82A and 83.

Referred to the Committee on Rules and Administration for comparison

with S.F. No. 710, now on General Orders.

H.F. No. 242: A bill for an act relating to commerce; modifying the maximum finance charge on certain open end credit sales; authorizing additional charges; amending Minnesota Statutes 1986, section 334.16, subdivision 1, and by adding a subdivision.

Referred to the Committee on Commerce.

H.F. No. 945: A bill for an act relating to education; requiring a school district to consider consumer education periodically in formulating its planning, evaluation and reporting policy; amending Minnesota Statutes 1986, section 126.66, subdivision 1.

Referred to the Committee on Education.

H.F. No. 949: A bill for an act relating to consumer protection; requiring registration for health, buying, and social referral clubs; providing bonding and alternative security requirements; regulating bond claims; amending Minnesota Statutes 1986, sections 325G.23, subdivisions 4, 8, and by adding a subdivision; and 325G.27.

Referred to the Committee on Finance.

REPORTS OF COMMITTEES

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

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

S.F. No. 956: A bill for an act relating to natural resources; amending drainage law definitions; prescribing payment of attorney fees on certain drainage issues appealed by the commissioner; prescribing general provisions for petitions; amending petition requirements; allowing drainage proceedings to be delayed; prescribing conditions for assessments against property within a municipality; prescribing extent of benefits and damages; requiring a benefits and damages statement and a property owner's report; providing drainage liens to be recorded against tracts of property; changing rates of interest to be paid during drainage proceedings; amending definition of repair; authorizing conditions for repair if design elevation is different than original construction elevation; providing easement for drainage authority to inspect drainage system; requiring permanent grass strips; apportioning repair costs; renumbering sections; providing penalties; amending Minnesota Statutes 1986, sections 105.40, subdivision 11; 106A.005, subdivisions 2, 3, 4, 9, 10, 11, 12, 13, 14, 19, and by adding subdivisions; 106A.011, subdivisions 3 and 4; 106A.015; 106A.021, by adding subdivisions; 106A.031; 106A.051; 106A.055; 106A.081, subdivisions 2 and 3; 106A.091, subdivision 4; 106A.095, subdivisions 1, 3, and 4; 106A.101, subdivisions 2 and 4; 106A.215, subdivisions 4 and 5; 106A.221; 106A.225; 106A.231; 106A.235, subdivisions 1 and 2; 106A.241, subdivisions 1, 2, and 5; 106A.245; 106A.251; 106A.261, subdivisions 1, 3, 4, 5, 6, and 7; 106A.265, subdivision 1; 106A.271, subdivision 1; 106A.275; 106A.281; 106A.285, subdivisions 2, 4, 5, 6, 9, and 10; 106A.295; 106A.301; 106A.305, subdivision 1; 106A.311; 106A.315, subdivisions 1, 2, 5, 6, and by adding subdivisions; 106A.321, subdivision 1, and by

adding a subdivision; 106A.325, subdivisions 2 and 3; 106A.335, subdivisions 1 and 3; 106A.341; 106A.345; 106A.351; 106A.401, subdivisions 2 and 6, and by adding subdivisions; 106A.405; 106A.411, subdivisions 3 and 4; 106A.501, subdivisions 4, 6, and 7; 106A.505, subdivisions 1, 2, 3, 7, and 8; 106A.511, subdivisions 1, 2, 3, and 5; 106A.515; 106A.525, subdivisions 2, 3, and 4; 106A.541; 106A.555, subdivision 2; 106A.601; 106A.605; 106A.611, subdivisions 2, 3, 6, and 7; 106A.615, subdivisions 4 and 7; 106A.635, subdivisions 1 and 10; 106A.645, subdivision 7; 106A.651, subdivision 1; 106A.655, subdivision 1; 106A.701, subdivision 1, and by adding a subdivision; 106A.705; 106A.715, subdivision 6; 106A.731, subdivision 1; 106A.741, subdivision 5; 106A.811, subdivisions 2, 4, and 5; 112.431, subdivision 2; 112.48, subdivision 1; 112.59; 112.60, subdivision 1; and 112.65, subdivision 1; proposing coding for new law in Minnesota Statutes, chapter 106A; repealing Minnesota Statutes 1986, sections 106A.005, subdivision 25; 106A.201; 106A.205; 106A.211; and 111.01 to 111.421.

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

Page 2, line 16, delete "*and emergency*"

Page 9, line 14, delete "*project*"

Page 19, delete line 32

Page 19, line 33, delete "*have*" and after "*attorney*" insert "*must*" and delete the second "*the*" and insert "*each*" and after "*bond*" insert "*filed with the county*"

Page 31, line 5, delete "*against*" and insert "*to*"

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

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

S.F. No. 1258: A bill for an act relating to metropolitan sports facilities; allowing a waiver of the admissions tax in certain circumstances; amending Minnesota Statutes 1986, section 473.595, subdivision 1, and by adding a subdivision.

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

Page 1, line 17, strike "*Commencing*"

Page 1, strike line 18

Page 1, line 19, strike everything before the second "*the*"

Page 1, line 21, strike "*such*"

Page 1, line 22, after "*facilities*" insert "*constructed by the commission pursuant to sections 473.551 to 473.595*"

Page 2, line 22, delete "*lowered*" and insert "*reduced*"

Page 2, line 23, delete the second "*the*" and delete "*and showing*"

Page 2, line 24, after "*corporation*" insert "*that sells admissions to events at the sports facility, showing*"

Page 2, line 25, after "loss" insert ", as determined under generally accepted accounting principles,"

Page 2, line 27, delete "lower" and insert "reduce"

Page 2, line 28, delete "it is" and insert "the waiver or reduction would, in the judgment of the commission, make it"

Page 2, line 30, after the period, insert "A waiver or reduction may be granted for a period of up to one year. Subsequent waivers or reductions may be granted if the applicant continues to qualify."

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. 1347: A bill for an act relating to workers' compensation; requiring security of self-insurers; regulating special compensation fund assessments and liability; creating a self-insurer insolvency fund; authorizing certain inspections; providing penalties; amending Minnesota Statutes 1986, sections 176.041, subdivision 4, and by adding a subdivision; 176.129, subdivisions 3 and 13; 176.131, subdivisions 1, 1a, and 8; 176.132, subdivision 1; 176.181, subdivision 3; 176.182; 176.183, subdivisions 1a and 2; 176.225, subdivision 2; proposing coding for new law in Minnesota Statutes, chapters 60A and 176.

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

Delete everything after the enacting clause and insert:

"Section 1. [60A.101] [SELF-INSURERS; DEPOSIT OF SECURITIES OR BONDS.]

Subdivision 1. [REQUIREMENT.] A workers' compensation self-insurer, except the state and its political subdivisions, as well as political subdivision self-insurance pools exempted by sections 471.98 to 471.982, must deposit securities or surety bonds acceptable to the commissioner of commerce of a value at least equal to:

(1) 110 percent of its total outstanding workers' compensation liability provided that the deposit must be no less than the retention level selected with the workers' compensation reinsurance association, for an employer who has been self-insured for at least two years. The total outstanding workers' compensation liability incurred must be certified by an actuary who is a member of the casualty actuarial society one year after the date of authority to self-insure and every fourth year thereafter unless requested more frequently by the commissioner of commerce. Self-insurers authorized to self-insure on the effective date of this section must provide this actuarial certification of outstanding liabilities on July 1, 1988, or upon the anniversary of their authority to self-insure, whichever comes first; or

(2) the greater of the retention level selected with the workers' compensation reinsurance association, or 70 percent of the employer's estimated current modified premium as developed using the rates currently utilized by the Minnesota workers' compensation assigned risk plan for an employer who has been self-insured less than two years.

Subd. 2. [SURETY BOND FORM.] The bond must be in the form as follows:

"KNOW ALL PERSONS BY THESE PRESENTS: That we, (entity to be bonded), of (location), (hereinafter called the "principal(s)"), as principal(s), and (bonding company name), a (name of state) corporation, of (location) (hereinafter called the "surety"), as surety, are held and firmly bound unto the commissioner of commerce of the STATE OF MINNESOTA for the use and benefit of the employees of the principal(s) and to pay workers' compensation obligations of the principal(s) in the sum of (amount in writing), for the payment of which well and truly to be made, the principal(s) bind themselves, their successors and assigns, and the surety binds itself and its successors and assigns, jointly and severally, firmly by these presents.

WHEREAS, in accordance with the provisions of Minnesota Statutes, section 176.181, the principal(s) has by written order of the commissioner of commerce of the state of Minnesota been exempted from insuring their liability for compensation according to the Minnesota workers' compensation act and have been permitted by order to self-insure all liability hereafter arising under the workers' compensation act.

NOW, THEREFORE, the condition of this obligation is such that if the principal(s) shall, according to the terms, provisions, and limitations of the Minnesota workers' compensation act, pay all of the principal's liabilities and obligations under the act, including all benefits as provided by the act, then this obligation shall be null and void, otherwise to remain in full force and effect subject, however, to the following terms and conditions.

(a) The liability of the surety is limited to the payment of all legal liabilities and obligations, including payment of compensation and medical benefits, provided by the workers' compensation act of Minnesota which are payable by the principals for or on account of personal injuries or occupational diseases sustained during or attributable to the entire period that the bond is in effect, subject to cancellation, as provided in paragraphs (b) and (e). In no event shall the total liability of the surety exceed the penal amount of the bond.

(b) In the event of a default, whenever occurring, on the part of the principal(s) to abide by any award, order, or decision directing and awarding payment of such legal liabilities, obligations, or benefits to or on behalf of any employee or the dependents of any deceased employee, which occurred during the period this bond remains in force, regardless of whether this bond has been canceled prior to the making of the claim or the award, order, or decision, the commissioner of commerce may, upon 20 days notice to the surety and opportunity to be heard, require the surety to pay the amount of the award, order, or decision to be enforced in the same manner as an award may be enforced against said principal(s).

(c) Service on the surety shall be deemed to be service on the principals.

(d) This bond shall continue in force from year to year unless canceled as herein provided. However, the penal amount of the bond must be revised each year to comply with all statutory requirements and rules. Regardless of the number of years this bond remains in force or the number of annual premiums paid or payable, the total liability of the surety hereunder may not exceed the penal amount of the bond.

(e) This bond may be canceled at any time by the surety by giving 60

days notice in writing to the commissioner of commerce of the state of Minnesota at its offices in the city of St. Paul, Minnesota, and upon expiration of said 60 days, the liability of the surety hereunder shall cease, except as to liability incurred hereunder prior to the expiration of said 60 days, as set out in paragraph (a).

(f) This bond shall become effective at (time of day, month, day, year).

IN TESTIMONY WHEREOF, said principal(s) and said surety have caused this instrument to be signed by their respective duly-authorized officers and their corporate seals to be hereunto affixed this (day, month, year).

Signed, sealed, and delivered in
the presence of:

Corporation Name

By: _____

Bonding Company Name

By: _____."

Subd. 3. [DEFINITIONS.] For the purposes of this section, "control" means, with respect to a company or organization authorized to self-insure under Minnesota Statutes, section 176.181, and Minnesota Rules, parts 2780.0100 to 2780.9920:

(1) the ownership of, directly or indirectly, or acting through one or more other persons, control of or the power to vote, 25 percent of more of any class of voting securities; and

(2) control in any manner over the election of a majority of the directors.

Sec. 2. Minnesota Statutes 1986, section 175.007, subdivision 2, is amended to read:

Subd. 2. The advisory council shall study and present to the legislature and the governor, on or before November 15 of each even numbered year, its findings relative to the costs, methods of financing, and the formula to be used to provide supplementary compensation to workers who have been determined permanently and totally disabled prior to July 1, 1969, and its findings relative to alterations in the scheduled benefits for permanent partially disabled, and other aspects of the workers' compensation act. The council shall also study and present to the legislature and the governor on or before November 15 of 1981 and by November 15 of each even-numbered year thereafter a report on the financial, administrative and personnel needs of the workers' compensation division. The council shall receive and respond to any request from the commissioner for advice on a specific workers' compensation issue. After studying the issue the council shall report to the commissioner, the legislature, and the governor any recommendations that received approval by a vote of a majority of all its members. The council, upon a two-thirds vote of all its members, shall study a specific statutory section relating to workers' compensation specified in the motion which is voted upon. After studying the statutory section the council shall report any recommendations to the commissioner, the legislature, and the governor that received approval by a majority of its members.

Sec. 3. Minnesota Statutes 1986, section 176.021, subdivision 1, is amended to read:

Subdivision 1. [LIABILITY FOR COMPENSATION.] Except as excluded by this chapter all employers and employees are subject to the

provisions of this chapter.

Every employer is liable for compensation according to the provisions of this chapter and is liable to pay compensation in every case of personal injury or death of an employee arising out of and in the course of employment without regard to the question of negligence. The burden of proof of these facts is upon the employee.

~~If the injury was intentionally self-inflicted or the intoxication of the employee is the proximate cause of the injury, then the employer is not liable for compensation. The burden of proof of these facts is upon the employer.~~

The employer is not liable for compensation if:

- (1) the injury was suicide or otherwise intentionally self-inflicted; or*
- (2) the intoxication of the employee, by alcohol or use of an unprescribed controlled substance as defined in section 152.01, was a substantial contributing cause of the injury. The burden of proof of these facts is upon the employer; except that, if there is evidence of use by the employee of an unprescribed controlled substance or of the employee's alcohol concentration of 0.10 or more, by analysis of two standard and acceptable tests of the employee's blood, breath, or urine at the time of the injury or as measured within two hours thereof, the employee is conclusively presumed to have been under the influence and has the burden of proving that being under the influence was not a substantial contributing cause of the injury.*

Sec. 4. Minnesota Statutes 1986, section 176.041, subdivision 4, is amended to read:

Subd. 4. [OUT-OF-STATE EMPLOYMENTS.] If an employee who regularly performs the primary duties of employment outside of this state or is hired to perform the primary duties of employment outside of this state, receives an injury within this state in the employ of the same employer, such injury shall be covered within the provisions of this chapter if the employee chooses to forego any workers' compensation claim resulting from the injury that the employee may have a right to pursue in some other state, *provided that the special compensation fund is not liable for payment of benefits pursuant to section 176.183 if the employer is not insured against workers' compensation liability pursuant to this chapter and the employee is a nonresident of Minnesota on the date of the personal injury.*

Sec. 5. Minnesota Statutes 1986, section 176.129, subdivision 9, is amended to read:

Subd. 9. [POWERS OF FUND.] In addition to powers granted to the special compensation fund by this chapter the fund may do the following:

- (a) sue and be sued in its own name;
- (b) intervene in or commence an action under this chapter or any other law, including, but not limited to, intervention or action as a subrogee to the division's right in a third-party action, any proceeding under this chapter in which liability of the special compensation fund is an issue, or any proceeding which may result in other liability of the fund or to protect the legal right of the fund;
- (c) enter into settlements including but not limited to structured, annuity purchase agreements with appropriate parties under this chapter;

(d) contract with another party to administer the special compensation fund; and

(e) take any other action which an insurer is permitted by law to take in operating within this chapter; and

(f) *conduct a financial audit of indemnity claim payments and assessments reported to the fund. This may be contracted by the fund to a private auditing firm.*

Sec. 6. Minnesota Statutes 1986, section 176.129, subdivision 11, is amended to read:

Subd. 11. [ADMINISTRATIVE PROVISIONS.] The accounting, investigation, and legal costs necessary for the administration of the programs financed by the special compensation fund shall be paid from the fund during each biennium commencing July 1, 1981. Staffing and expenditures related to the administration of the special compensation fund shall be approved through the regular budget and appropriations process. *All sums recovered by the special compensation fund as a result of actions under section 176.061, or recoveries of payments made by the special compensation fund under section 176.183 or 176.191 must be credited to the special compensation fund.*

Sec. 7. Minnesota Statutes 1986, section 176.129, subdivision 13, is amended to read:

Subd. 13. [EMPLOYER REPORTS.] All employers and insurers shall make reports to the commissioner as required for the proper administration of this section and ~~section~~ sections 176.131 and 176.132. *Employers and insurers may not be reimbursed from the special compensation fund for any periods for which the employer has not properly filed reports as required by this section and made all payments due to the special compensation fund under subdivision 3.*

Sec. 8. Minnesota Statutes 1986, section 176.131, subdivision 1, is amended to read:

Subdivision 1. If an employee incurs personal injury and suffers disability *from that injury alone* that is substantially greater, because of a preexisting physical impairment, than what would have resulted from the personal injury alone, the employer or insurer shall pay all compensation provided by this chapter, but the employer shall be reimbursed from the special compensation fund for all compensation paid in excess of 52 weeks of monetary benefits and \$2,000 in medical expenses, subject to the ~~following~~ exceptions in paragraphs (a) and (b):

(a) *If the disability caused by the subsequent injury is made substantially greater by the employee's registered preexisting physical impairment, there must be apportionment of liability among all injuries. The special compensation fund may only reimburse for that portion of the compensation, medical expenses, and rehabilitation expenses attributable to the subsequent injury after the applicable deductible has been met.*

(b) *If the subsequent personal injury alone results in permanent partial disability to a scheduled member under the schedule adopted by the commissioner pursuant to section 176.105, the monetary and medical expense limitations shall not apply and the employer is liable for the compensation, medical expense, and rehabilitation attributable to the permanent partial disability, and may be reimbursed from the special compensation fund only*

~~for compensation paid in excess of the disability the special compensation fund may not reimburse permanent partial disability, medical expenses, or rehabilitation expenses.~~

Sec. 9. Minnesota Statutes 1986, section 176.131, subdivision 8, is amended to read:

Subd. 8. As used in this section the following terms have the meanings given them:

"Physical impairment" means any physical or mental condition that is permanent in nature, whether congenital or due to injury, disease or surgery and which is or is likely to be a hindrance or obstacle to obtaining employment except that physical impairment is limited to the following:

- (a) Epilepsy,
- (b) Diabetes,
- (c) Hemophilia,
- (d) Cardiac disease, *provided that objective medical evidence substantiates at least the minimum permanent partial disability listed in the workers' compensation permanent partial disability schedule,*
- (e) Partial or entire absence of thumb, finger, hand, foot, arm or leg,
- (f) Lack of sight in one or both eyes or vision in either eye not correctable to 20/40,
- (g) Residual disability from poliomyelitis,
- (h) Cerebral Palsy,
- (i) Multiple Sclerosis,
- (j) Parkinson's disease,
- (k) Cerebral vascular accident,
- (l) Chronic Osteomyelitis,
- (m) Muscular Dystrophy,
- (n) Thrombophlebitis,
- (o) Brain tumors,
- (p) Pott's disease,
- (q) Seizures,
- (r) Cancer of the bone,
- (s) Leukemia,
- (t) Any other physical impairment resulting in a disability rating of at least ten percent of the whole body if the physical impairment were evaluated according to standards used in workers' compensation proceedings, and
- (u) Any other physical impairments of a permanent nature which the commissioner may by rule prescribe;

"Compensation" has the meaning defined in section 176.011;

"Employer" includes insurer;

"Disability" means, unless otherwise indicated, any condition causing either temporary total, temporary partial, permanent total, permanent partial, death, medical expense, or rehabilitation.

Sec. 10. Minnesota Statutes 1986, section 176.181, subdivision 2, is amended to read:

Subd. 2. [COMPULSORY INSURANCE; SELF-INSURERS.] (4) (a) Every employer, except the state and its municipal subdivisions, liable under this chapter to pay compensation shall insure payment of compensation with some insurance carrier authorized to insure workers' compensation liability in this state, or obtain a written order from the commissioner of commerce exempting the employer from insuring liability for compensation and permitting self-insurance of the liability. The terms, conditions and requirements governing self-insurance shall be established by the commissioner pursuant to chapter 14. The commissioner of commerce shall also adopt, pursuant to clause (2)(c), rules permitting two or more employers, whether or not they are in the same industry, to enter into agreements to pool their liabilities under this chapter for the purpose of qualifying as group self-insurers. With the approval of the commissioner of commerce, any employer may exclude medical, chiropractic and hospital benefits as required by this chapter. An employer conducting distinct operations at different locations may either insure or self-insure the other portion of operations as a distinct and separate risk. An employer desiring to be exempted from insuring liability for compensation shall make application to the commissioner of commerce, showing financial ability to pay the compensation, whereupon by written order the commissioner of commerce, on deeming it proper, may make an exemption. The commissioner of commerce may require further statements of financial ability of the employer to pay compensation. Upon ten days written notice the commissioner of commerce may revoke the order granting an exemption, in which event the employer shall immediately insure the liability. As a condition for the granting of an exemption the commissioner of commerce may require the employer to furnish security the commissioner of commerce considers sufficient to insure payment of all claims under this chapter. If the required security is in the form of currency or negotiable bonds, the commissioner of commerce shall deposit it with the state treasurer. In the event of any default upon the part of a self-insurer to abide by any final order or decision of the commissioner of labor and industry directing and awarding payment of compensation and benefits to any employee or the dependents of any deceased employee, then upon at least ten days notice to the self-insurer, the commissioner of commerce may by written order to the state treasurer require the treasurer to sell the pledged and assigned securities or a part thereof necessary to pay the full amount of any such claim or award with interest thereon. This authority to sell may be exercised from time to time to satisfy any order or award of the commissioner of labor and industry or any judgment obtained thereon. When securities are sold the money obtained shall be deposited in the state treasury to the credit of the commissioner of commerce and awards made against any such self-insurer by the commissioner of commerce shall be paid to the persons entitled thereto by the state treasurer upon warrants prepared by the commissioner of commerce and approved by the commissioner of finance out of the proceeds of the sale of securities. Where the security is in the form of a surety bond or personal guaranty the commissioner of commerce, at any time, upon at least ten days notice and opportunity to be heard, may require the surety to pay the amount of the award, the payments to be enforced in like manner

as the award may be enforced.

(2)(a) (b) No association, corporation, partnership, sole proprietorship, trust or other business entity shall provide services in the design, establishment or administration of a group self-insurance plan under rules adopted pursuant to this subdivision unless it is licensed to do so by the commissioner of commerce. An applicant for a license shall state in writing the type of activities it seeks authorization to engage in and the type of services it seeks authorization to provide. The license shall be granted only when the commissioner of commerce is satisfied that the entity possesses the necessary organization, background, expertise, and financial integrity to supply the services sought to be offered. The commissioner of commerce may issue a license subject to restrictions or limitations, including restrictions or limitations on the type of services which may be supplied or the activities which may be engaged in. The license is for a two-year period.

(b) (c) To assure that group self-insurance plans are financially solvent, administered in a fair and capable fashion, and able to process claims and pay benefits in a prompt, fair and equitable manner, entities licensed to engage in such business are subject to supervision and examination by the commissioner of commerce.

(e) (d) Any three or more employers, excluding the state and its political subdivisions, as described in section 471.617, subdivision 1, who are liable for compensation according to this chapter may jointly self-insure that liability. Joint plans must meet the following requirements:

(1) A joint self-insurance plan must include aggregate excess stop-loss coverage provided by an insurance company licensed by the state of Minnesota. Aggregate excess stop-loss coverage must include provisions to cover incurred, unpaid claim liability in the event of plan termination. The excess or stop-loss insurer must bear the risk of coverage for any member of the pool that becomes insolvent with an outstanding contribution due. In addition, the plan of self-insurance must have participants fund an amount at least equal to the point at which the excess or stop-loss insurer must assume 100 percent of additional liability. A joint self-insurance plan must submit its proposed excess or stop-loss insurance contract to the commissioner of commerce at least 30 days prior to the proposed plan's effective date and at least 30 days subsequent to any renewal date. The commissioner shall review the contract to determine if it meets the standards established by this subdivision and respond within a 30-day period. The initial excess or stop-loss insurance coverage must be non-cancelable for a minimum term of two years. Subsequent contracts must provide for at least 60 days' notice of cancellation or nonrenewal thereafter. This notice must be given to the commissioner as well as the joint self-insurance plan.

(2) If the joint self-insurance plan is unable to obtain excess or stop-loss insurance in the private market, the workers' compensation reinsurance association must provide such coverage to the joint self-insurance plan. Inability to obtain coverage in the private market is deemed to be established, with no further proof required, if the joint self-insurance plan has been refused by at least two insurers licensed to do business in this state, who offer excess or stop-loss insurance.

(3) The workers' compensation reinsurance association shall adopt initial forms and rates for such coverage 180 days after the effective date of this subdivision. Thereafter, the forms and rates may be modified in the

usual manner for the association's forms and rates. The workers' compensation reinsurance association shall offer limits of coverage to a joint self-insurance plan in at least the amounts required by the commissioner for the plan.

(4) No joint self-insurance plan may offer marketing, risk management, or administrative services unless these services are provided by vendors duly licensed by the commissioner to provide these services. No vendor of these services may be a trustee of a joint self-insurance plan for which they provide marketing, risk management, or administrative services.

(5) A joint self-insurance plan is subject to the requirements of the applicable parts of chapters 60A, 72A, 72B, 72C, and 79 unless otherwise specifically exempt. A joint self-insurance plan must offer a plan which complies with all applicable rules and statutes.

(6) Funds collected from the participants under joint self-insurance plans must be held in trust subject to the following requirements:

(i) A board of trustees elected by the participants shall serve as fund managers on behalf of participants. Trustees must be plan participants. No participants may be represented by more than one trustee. A minimum of three and a maximum of seven trustees may be elected. Trustees shall receive no remuneration, but they may be reimbursed for actual and reasonable expenses incurred in connection with duties as trustees.

(ii) Trustees shall be bonded in an amount not less than \$100,000 nor more than \$500,000 from a licensed bonding company.

(iii) Investment of plan funds is subject to the same restrictions as are applicable to political subdivisions pursuant to section 475.66. All investments must be managed by a bank or other investment organization licensed to operate in Minnesota.

(iv) Trustees, on behalf of the fund, shall file annual reports with the commissioner of commerce within 30 days immediately following the end of each calendar year. The reports must summarize the financial condition of the fund, itemize collection from participants, and detail all fund expenditures.

(7) A joint self-insurance plan shall pay a two percent revenue fee. This revenue must be computed based on two percent of the paid claims level for the most recently completed calendar year. This revenue must be deposited in the fund.

(8) Workers' compensation insurance contracts in effect at the time of enactment of this clause may be canceled without penalty until July 1, 1988, by employers who participate in a joint self-insurance plan established under this clause. The premium for any policy so canceled shall be refunded on a pro rata basis.

(e) To carry out the purposes of this subdivision, the commissioner of commerce may promulgate administrative rules, including emergency rules, pursuant to sections 14.01 to 14.70. These rules may:

(i) establish reporting requirements for administrators of group self-insurance plans;

(ii) establish standards and guidelines to assure the adequacy of the financing and administration of group self-insurance plans;

(iii) (3) establish bonding requirements or other provisions assuring the financial integrity of entities administering group self-insurance plans;

(iv) (4) establish standards, including but not limited to minimum terms of membership in self-insurance plans, as necessary to provide stability for those plans;

(v) (5) establish standards or guidelines governing the formation, operation, administration and dissolution of self-insurance plans; and

(vi) (6) establish other reasonable requirements to further the purposes of this subdivision.

Sec. 11. Minnesota Statutes 1986, section 176.181, subdivision 3, is amended to read:

Subd. 3. [FAILURE TO INSURE, PENALTY.] Any employer who fails to comply with the provisions of subdivision 2 to secure payment of compensation is liable to the state of Minnesota for a penalty of ~~\$100~~ \$750, if the number of uninsured employees is less than five and for a penalty of ~~\$400~~ \$1,500 if the number of such uninsured employees is five or more. If the commissioner determines that the failure to comply with the provisions of subdivision 2 was willful and deliberate, the employer shall be liable to the state of Minnesota for a penalty of ~~\$500~~ \$2,500, if the number of uninsured employees is less than five, and for a penalty of ~~\$2,000~~ \$5,000 if the number of uninsured employees is five or more. If the employer continues noncompliance, the employer is liable for five times the lawful premium for compensation insurance for such employer for the period the employer fails to comply with such provisions, commencing ten days after notice has been served upon the employer by the commissioner of the department of labor and industry by certified mail. These penalties may be recovered jointly or separately in a civil action brought in the name of the state by the attorney general in any court having jurisdiction. Whenever any such failure occurs the commissioner of the department of labor and industry shall immediately certify ~~the~~ *that* fact ~~thereof~~ to the attorney general. Upon receipt of such certification the attorney general shall forthwith commence and prosecute ~~such~~ *the* action. All penalties recovered by the state in any such action shall be paid into the state treasury and credited to the special compensation fund. If an employer fails to comply with the provisions of subdivision 2, to secure payment of compensation after having been notified of the employer's duty, the attorney general, upon request of the commissioner, may proceed against the employer in any court having jurisdiction for an order restraining the employer from having any person in employment at any time when the employer is not complying with the provisions of subdivision 2 *or for an order compelling the employer to comply with subdivision 2.*

Sec. 12. Minnesota Statutes 1986, section 176.182, is amended to read:

176.182 [BUSINESS LICENSES OR PERMITS; COVERAGE REQUIRED.]

Every state *or local* licensing agency shall withhold the issuance *or renewal* of a license or permit to operate a business in Minnesota until the applicant presents acceptable evidence of compliance with the workers' compensation insurance coverage requirement of section 176.181, subdivision 2, *by providing the name of the insurance company, the policy number, and dates of coverage or the permit to self-insure. The commissioner shall assess a penalty to the employer of \$1,000 payable to the*

special compensation fund, if the information is not reported or is falsely reported.

Neither the state nor any governmental subdivision of the state shall enter into any contract for the doing of any public work before receiving from all other contracting parties acceptable evidence of compliance with the workers' compensation insurance coverage requirement of section 176.181, subdivision 2.

This section shall not be construed to create any liability on the part of the state or any governmental subdivision to pay workers' compensation benefits or to indemnify the special compensation fund, an employer, or insurer who pays workers' compensation benefits.

Sec. 13. Minnesota Statutes 1986, section 176.183, subdivision 1, is amended to read:

Subdivision 1. When any employee sustains an injury arising out of and in the course of employment while in the employ of an employer, other than the state or its political subdivisions, not insured or self-insured as provided for in this chapter, the employee or the employee's dependents shall nevertheless receive benefits as provided for in this chapter from the special compensation fund, and the commissioner has a cause of action against the employer for reimbursement for all moneys paid out or to be paid out, and, in the discretion of the court, as punitive damages an additional amount not exceeding 50 percent of all moneys paid out or to be paid out. As used in this subdivision, "employer" includes officers of corporations who have legal control, either individually or jointly with another or others, of the payment of wages. An action to recover the moneys shall be instituted unless the commissioner determines that no recovery is possible. ~~All moneys recovered shall be deposited in the general fund.~~ There shall be no payment from the special compensation fund if there is liability for the injury under the provisions of section 176.215, by an insurer or self-insurer.

Sec. 14. Minnesota Statutes 1986, section 176.183, subdivision 1a, is amended to read:

Subd. 1a. When an employee or the employee's dependent is entitled to benefits under this chapter from a self-insurer, present or past, other than the state and its municipal subdivisions, but the self-insurer fails to pay the benefits, the employee or the employee's dependents, regardless of the date when the accident, personal injury, occupational disease, or death occurred, shall nevertheless receive the benefits from the special compensation fund. The commissioner has a cause of action against the self-insuring employer for reimbursement for all benefits and other expenditures paid out or to be paid out and, in the discretion of the court, the self-insurer is liable for punitive damages in an amount not to exceed 50 percent of the total of all benefits and other expenditures paid out or to be paid out. The commissioner shall institute an action to recover the total expenditures from the fund unless the commissioner determines that no recovery is possible. All proceeds recovered shall be deposited in the ~~general~~ *special compensation fund.*

By assumption of the obligations of a self-insured employer pursuant to this subdivision, the special compensation fund has the right to direct reimbursement under the same conditions and in the same amounts from the workers' compensation insurers reinsurance association and from any

other agreement, contract, or insurance policies which would have reimbursed or indemnified the self-insured employer for payments made pursuant to this chapter.

Sec. 15. Minnesota Statutes 1986, section 176.183, subdivision 2, is amended to read:

Subd. 2. The commissioner of labor and industry, in accordance with the terms of the order awarding compensation, shall pay compensation to the employee or the employee's dependent from the special compensation fund. The commissioner of labor and industry shall certify to the commissioner of finance and to the legislature annually the total amount of compensation paid from the special compensation fund under subdivisions 1 and 1a. The commissioner of finance shall upon proper certification reimburse the special compensation fund from the general fund appropriation provided for this purpose. The amount reimbursed shall be limited to the certified amount paid under this section or the appropriation made for this purpose, whichever is the lesser amount. Compensation paid under this section which is not reimbursed by the general fund shall remain a liability of the special compensation fund and shall be financed by the percentage assessed under section ~~176.131~~, ~~subdivision 10~~ 176.129.

Sec. 16. [176.184] [INSPECTIONS; ENFORCEMENT.]

Subdivision 1. [PROOF OF INSURANCE.] The commissioner of labor and industry in order to carry out the purpose of section 176.181 may request satisfactory proof of authority to self-insure workers' compensation liability or satisfactory proof of insurance coverage for workers' compensation liability. If an employer does not provide satisfactory proof as requested within seven working days of the mailing of the request, the commissioner may proceed in accordance with the provisions of subdivisions 2 to 7.

Subd. 2. [AT PLACE OF EMPLOYMENT.] In order to carry out the purposes of section 176.181, the commissioner, upon presenting appropriate credentials to the owner, operator, or agent in charge, is authorized to enter without delay and at reasonable times any place of employment and to inspect and investigate during regular working hours and at other reasonable times, within reasonable limits, and in a reasonable manner, any records pertaining to that employer's workers' compensation insurance policy, number of employees, documents governing conditions and benefits of employment, contracts with employees and their authorized representatives, and any other documents which may be relevant to the enforcement of section 176.181, and to question privately any employer, owner, operator, agent, or employee with respect to matters relevant to the enforcement of section 176.181.

Subd. 3. [POWERS; COMMISSIONER AND DISTRICT COURT.] In making inspections and investigations under this chapter, the commissioner has the power to administer oaths, certify official acts, take and cause to be taken depositions of witnesses, issue subpoenas, and compel the attendance of witnesses and production of papers, books, documents, records, and testimony. In case of failure of any person to comply with any subpoena lawfully issued, or on the refusal of any witness to produce evidence or to testify to any matter regarding which the person may be lawfully interrogated, the district court shall, upon application of the commissioner, compel obedience in proceedings for contempt, as in the case of disobedience of the requirements of a subpoena issued by the court or a refusal

to testify.

Subd. 4. [RIGHTS OF EMPLOYER AND EMPLOYEE REPRESENTATIVE.] A representative of the employer and a representative authorized by employees must be given an opportunity to participate in any conference or discussion held prior to, during, or after any inspection. Where there is no authorized employee representative, the commissioner shall consult with a reasonable number of employees. No employee as a consequence of aiding an inspection may lose any privilege or payment that the employee would otherwise earn.

Subd. 5. [REQUEST FOR INVESTIGATION BY EMPLOYEE.] (a) Any employee or representative of an employee who believes that their employer is uninsured against workers' compensation liability may request an inspection by giving notice to the commissioner of the belief and grounds for the belief. Any notice must be written, shall set forth with reasonable particularity the grounds for the notice, and must be signed by the employee or representative of employees. A copy of the notice must be provided the employer, representative, or agent no later than the time of inspection, except that, upon the request of a person giving the notice, the employee's name and the names of individual employees referred to in the notice may not appear in the copy or on any record published, released, or made available. If upon receipt of the notification the commissioner determines that reasonable grounds exist to believe that the employer is uninsured against workers' compensation liability, the commissioner shall make an inspection in accordance with this section as soon as practicable. If the commissioner determines that there are not reasonable grounds to believe that a violation exists, the commissioner shall so notify the employee or representative of employees in writing. Upon notification, the employee or the employee representative may request the commissioner to reconsider the determination. Upon receiving the request, the commissioner shall review the determination.

(b) The commissioner, upon receipt of a report of violation of the mandatory insurance provisions of sections 176.181 or 176.185 verified by review of the department's insurance registration records and other relevant information, shall initiate a preliminary investigation to determine if reasonable grounds exist to believe that the employer is uninsured against workers' compensation liability, and upon certification of reasonable belief that the employer is uninsured the commissioner shall make an inspection in accordance with paragraph (a).

Subd. 6. [ORDER PERMITTING ENTRY.] Upon the refusal of an owner, operator, or agent in charge to permit entry as specified in this section, the commissioner may apply for an order in the district court in the county in which entry was refused, to compel the employer to permit the commissioner to enter and inspect the place of employment.

Subd. 7. [ADVANCE NOTICE.] Advance notice may not be authorized by the commissioner except:

(1) in circumstances where the inspection can most effectively be conducted after regular business hours or where special preparations are necessary for an inspection;

(2) where necessary to assure the presence of representatives of the employer and employees or the appropriate personnel needed to aid in the inspection; and

(3) in other circumstances where the commissioner determines that the giving of advance notice would enhance the probability of an effective and thorough inspection.

When advance notice is given to an employer, notice must also be given by the commissioner to the authorized representative of employees if the identity of the representative is known to the employer.

Sec. 17. Minnesota Statutes 1986, section 176.225, subdivision 2, is amended to read:

Subd. 2. [EXAMINATION OF BOOKS AND RECORDS.] To determine whether an employer or insurer is liable for the payment provided by subdivision 1, the division, a compensation judge, or the workers' compensation court of appeals upon appeal may examine the books and records of the employer or insurer relating to the payment of compensation, and may require the employer or insurer to furnish any other information relating to the payment of compensation.

The right of the division to review the records of an employer or insurer includes the right of the special compensation fund to examine records for the proper administration of sections 176.129, 176.131, 176.132, 176.181, and 176.183. The special compensation fund may not review the records of the employer or insurer relating to a claim under section 176.131 until the special compensation fund has accepted liability under that section or a final determination of liability under that section has been made. The special compensation fund may withhold reimbursement to the employer or insurer under section 176.131 or 176.132 if the employer or insurer denies access to records requested for the proper administration of section 176.129, 176.131, 176.132, 176.181, or 176.183.

Sec. 18. [APPROPRIATIONS; COMPLEMENT INCREASE.]

There is appropriated to the department of labor and industry for the fiscal years ending June 30 of the year indicated from the special compensation fund:

1988	1989
\$197,000	\$197,000

The approved complement of the department of labor and industry is increased by one and is to be used to enforce mandatory insurance requirements."

Delete the title and insert:

"A bill for an act relating to workers' compensation; requiring security of self-insurers; providing for liability for compensation; specifying duties of the workers' compensation advisory council; regulating special compensation fund assessments and liability; creating a self-insurer insolvency fund; regulating self-insurance; authorizing certain inspections; providing penalties; appropriating money; amending Minnesota Statutes 1986, sections 175.007, subdivision 2; 176.021, subdivision 1; 176.041, subdivision 4; 176.129, subdivisions 9, 11, and 13; 176.131, subdivisions 1 and 8; 176.181, subdivisions 2 and 3; 176.182; 176.183, subdivisions 1, 1a, and 2; 176.225, subdivision 2; proposing coding for new law in Minnesota Statutes, chapters 60A and 176."

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

H.F. No. 642: A bill for an act relating to human services; prohibiting licensing of supportive living residences; requiring monitoring of facilities; providing for various levels of care for persons with mental illness; directing the commissioner of human services to review and alter rules relating to residential care facilities for persons with mental illness; requiring study of housing needs for persons with mental illness; prohibiting payment to newly-licensed facilities having more than four residents with mental illness; amending Minnesota Statutes 1986, sections 245.802, subdivision 1a, and by adding subdivisions; 256D.01, by adding a subdivision; and 256D.37, by adding a subdivision.

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

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

S.F. No. 921: A bill for an act relating to local government; allocating community service block grant discretionary funds; designating certain counties eligible entities for community action funds; amending Minnesota Statutes 1986, sections 268.52, subdivision 2; and 268.53, subdivision 1.

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

Pages 1 and 2, delete section 1

Page 2, line 17, delete "Sec. 2." and insert "Section 1."

Page 2, lines 28 to 30, delete the new language and insert "*For purposes of this subdivision, "eligible entity" also means any community action agency which qualified under all federal and state regulations applicable during the period from 1981 to September 30, 1984, which includes only Olmsted and Freeborn counties.*"

Amend the title as follows:

Page 1, lines 2 and 3, delete "allocating community service block grant discretionary funds;"

Page 1, line 6, delete "sections 268.52, subdivision 2; and" and insert "section"

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

Mr. Solon from the Committee on Commerce, to which was referred

H.F. No. 444: A bill for an act relating to insurance; regulating funeral and burial expenses; allowing persons to select funeral or burial services and supplies of their choice; amending Minnesota Statutes 1986, section 72A.325.

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

Page 1, line 23, delete "an" and insert "*a direct equity*"

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. 405: A bill for an act relating to Forestville state park; adding property comprising Mystery Cave to Forestville state park; authorizing acquisition of lands and interests in lands therefor; 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. [85.012] [Subd. 19.] [MYSTERY CAVE ADDED TO FORESTVILLE STATE PARK.]

Subdivision 1. The commissioner of natural resources is authorized to acquire by gift or purchase the lands and interests in lands presently owned or controlled by the owners and operators of Mystery Cave, in Fillmore county, together with such other lands and interests in lands as may be necessary for the permanent development of Mystery Cave as a part of the state park system. These lands and interests in lands, when acquired, will constitute a part of Forestville state park, and shall be administered in the same manner as provided for in other state parks and shall be perpetually dedicated for such use. After necessary repairs and development, the commissioner may conduct guided tours of Mystery Cave and may establish fees therefor. These fees shall be deposited in the state park working capital fund. As necessary to the operation of Mystery Cave, the commissioner may enter into agreements with local road authorities for the maintenance or improvement of roads necessary to provide access to the cave.

Subd. 2. The lands and interests in lands which the commissioner may acquire by gift or purchase for Mystery Cave are described as follows:

(1) the North Half of the East 16 acres of the Southeast Quarter of the Southeast Quarter, the Southeast Quarter of the Southeast Quarter of the Southeast Quarter, and the East 1 acre of the Southwest Quarter of the Southeast Quarter of the Southeast Quarter in Section 19; the Southwest Quarter of the Southwest Quarter of the Southwest Quarter, and the North 20 acres of the East Half of the Southeast Quarter of Section 20; and a 2 rod cartway, the center line being described as follows: Commencing at a point 155 feet West of the northeast corner of the Southeast Quarter of the Southeast Quarter of the Southeast Quarter of Section 19, thence North 10 degrees 30 minutes West 600 feet, thence North 38 degrees 15 minutes West 196 feet, thence North 3 degrees West 460 feet to center of cartway; all in Township 102 North, Range 12 West, County of Fillmore; and

(2) subsurface estates and related rights and interests in lands needed for the permanent preservation of the cave and permanent development of those parts that will be open to the public. These subsurface estates shall include all minerals and mineral rights. The commissioner may exclude subsurface water and water rights from these acquisitions, on the condition that the location and drilling of wells be approved by the commissioner before drilling and that any water appropriation permit not substantially diminish the flow of any subterranean stream necessary to the natural condition of the cave. To the greatest extent possible, and for the purpose

of avoiding future damage to the cave, the commissioner shall specifically include, as a part of the subsurface interests acquired, all sand, gravel, rock, and any other rights that customarily are regarded as interests in surface estates.

Sec. 2. [NIAGARA CAVE FEASIBILITY STUDY.]

The legislature recognizes that caves are valuable natural resources to be used for educational purposes, scientific research, and promotion of economic development through tourism. It further recognizes that Niagara Cave of Harmony, Minnesota, one of two commercially operated caves in Minnesota, is a significant natural resource. In order to study, promote, and protect this privately owned resource, the commissioner of natural resources must, by June 30, 1989, complete a feasibility study to determine the best method of preserving, protecting, maintaining, and providing access to Niagara Cave, including:

- (1) the scientific quality of the Niagara Cave resource;
- (2) the need for protection of the Niagara Cave resource;
- (3) the feasibility and desirability of adding Niagara Cave to the state outdoor recreation system;
- (4) alternative public and private ownership options;
- (5) the amount and availability of funding necessary to preserve and operate Niagara Cave under public and private ownership options; and
- (6) other such related issues as determined necessary by the commissioner.

The feasibility study shall be accomplished using a citizens advisory committee which must include local citizens concerned for the welfare of Niagara Cave.

Sec. 3. [APPROPRIATION.]

\$212,000 is appropriated from the general fund to the commissioner of natural resources to be available until expended for the following purposes to implement the acquisition of Mystery Cave as part of Forestville state park under section 1. The following amounts are appropriated from the general fund to the commissioner for the purposes specified:

(a) for additional equipment	\$ 30,000
(b) for maintenance and operation	\$132,000
(c) for repair and maintenance of access roads under the jurisdiction of local road authorities	\$ 50,000

The approved complement of the department of natural resources is increased by one position in the classified service.

Sec. 4. [EFFECTIVE DATE.]

This act is effective the day following final enactment."

Amend the title as follows:

Page 1, line 5, after the semicolon, insert "providing for a Niagara Cave feasibility study;"

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. 463: A bill for an act relating to commerce; regulating securities; restricting certain charges made by investment advisors and broker dealers; providing for the denial, suspension, and revocation of licenses and the censure of licensees; exempting the sale of certain stock of a closely-held corporation; exempting certain industrial revenue bond transactions; regulating real estate brokers and salespersons; prohibiting commission-splitting and rebating on timeshare and other recreational lands; providing for continuing education of brokers; regulating licensees acting as principals; regulating business corporations; providing for the indemnification of certain persons against expenses and liabilities; regulating abandoned property; establishing a presumption of abandonment for certain profits or sums held by a cooperative; regulating the preparation and retention of abstracts of title to real property; transferring the powers and duties of the commissioner for the regulation of social and charitable organizations to the attorney general; amending Minnesota Statutes 1986, sections 80A.06, subdivision 5; 80A.07, subdivision 1; 80A.14, subdivision 18; 80A.15, subdivision 2; 82.17, subdivision 4; 82.19, subdivision 3; 82.21, subdivision 1; 82.22, subdivision 6; 82.24, subdivision 2; 82.34, subdivision 19; 302A.161, subdivision 22; 345.39; 386.375; and 302A.521, by adding a subdivision; repealing Minnesota Statutes 1986, section 309.55.

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

Delete everything after the enacting clause and insert:

"Section 1. [45.025] [REGULATION OF BUSINESS OF FINANCIAL PLANNING.]

Subdivision 1. [DEFINITIONS.] For the purposes of this section, the following terms have the meanings given them:

(a) "Person" means an individual, corporation, partnership, joint venture, joint stock association, trust, or unincorporated association.

(b) "Financial planner" means a person who provides or offers to provide financial planning services or financial counseling or advice on a group or individual basis. A person who, on advertisements, cards, signs, circulars, letterheads, or in another manner, indicates that the person is a "financial planner," "financial counselor," "financial adviser," "investment counselor," "estate planner," "investment adviser," "financial consultant," or other similar designation, title, or combination is considered to be representing himself or herself to be engaged in the business of financial planning.

(c) "Advertisement" includes:

(1) printed or published material, audiovisual material, and descriptive literature of a financial planner used in direct mail, newspapers, magazines, other periodicals, radio scripts, television scripts, billboards, and other similar displays, excluding advertisements prepared for the sole purpose of obtaining employees, agents, or agencies;

(2) descriptive literature and sales ads of all kinds issued by a financial planner for presentation to members of the public, including but not limited to, circulars, leaflets, booklets, depictions, illustrations, and form letters;

(3) prepared sales talks, presentations, and materials for use by a fi-

nancial planner and any representations made by a financial planner in accordance with these talks, presentations, and materials; and

(4) statements, written or oral, by a financial planner.

Subd. 2. [LIABILITY.] A person who represents himself or herself as a financial planner is liable to a person for whom the services are performed for compensation and who is damaged by reason of reliance upon the services unless the person rendering the services proves that the services were performed with due care and skill reasonably expected of a person who is an expert.

A person damaged through reliance upon the services of a financial planner may bring a civil action for equitable relief as determined by the court and for damages resulting from the reliance, together with costs and disbursements, including the cost of investigation and attorney fees.

Subd. 3. [PENALTY.] A financial planner who damages a person in the course of rendering financial planning services is subject to the penalties specified in chapter 45.

Sec. 2. [45.026] [INVESTIGATIONS AND SUBPOENAS.]

Subdivision 1. [GENERAL POWERS.] In connection with the administration of chapters 45 to 83, 309, and 332, the commissioner of commerce may:

(1) make such public or private investigations within or without this state as the commissioner considers necessary to determine whether any person has violated or is about to violate chapters 45 to 83, 309, and 332 or any rule or order under those chapters, or to aid in the enforcement of chapters 45 to 83, 309, and 332, or in the prescribing of rules or forms under those chapters;

(2) require or permit any person to file a statement in writing, under oath or otherwise as the commissioner determines, as to all the facts and circumstances concerning the matter being investigated;

(3) hold hearings, upon reasonable notice, in respect to any matter arising out of the administration of chapters 45 to 83, 309, and 332;

(4) conduct investigations and hold hearings for the purpose of compiling information with a view to recommending changes in chapters 45 to 83, 309, and 332 to the legislature;

(5) examine the books, accounts, records, and files of every licensee under chapters 45 to 83, 309, and 332 and of every person who is engaged in any activity regulated under chapters 45 to 83, 309, and 332; the commissioner or a designated representative shall have free access during normal business hours to the offices and places of business of the person, and to all books, accounts, papers, records, files, safes, and vaults maintained in the place of business;

(6) publish information which is contained in any order issued by the commissioner; and

(7) require any person subject to chapters 45 to 83, 309, and 332 to report all sales or transactions that are regulated under chapters 45 to 83, 309, and 332. The reports must be made within ten days after the commissioner has ordered the report. The report is accessible only to the respondent and other governmental agencies unless otherwise ordered by

a court of competent jurisdiction.

Subd. 2. [POWER TO COMPEL PRODUCTION OF EVIDENCE.] *For the purpose of any investigation, hearing, or proceeding under chapters 45 to 83, 309, and 332, the commissioner or a designated representative may administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of books, papers, correspondence, memoranda, agreements, or other documents or records that the commissioner considers relevant or material to the inquiry.*

Subd. 3. [COURT ORDERS.] *In case of contumacy by, or refusal to obey a subpoena issued to any person, the district court, upon application by the commissioner, may issue to any person an order directing that person to appear before the commissioner, or the officer designated by the commissioner, there to produce documentary evidence if so ordered or to give evidence relating to the matter under investigation or in question. Failure to obey the order of the court may be punished by the court as a contempt of court.*

Subd. 4. [SCOPE OF PRIVILEGE.] *No person is excused from attending and testifying or from producing any document or record before the commissioner, or from obedience to the subpoena of the commissioner or any officer designated by the commissioner or in a proceeding instituted by the commissioner, on the ground that the testimony or evidence required may tend to incriminate that person or subject that person to a penalty of forfeiture. No person may be prosecuted or subjected to a penalty or forfeiture for or on account of a transaction, matter, or thing concerning which the person is compelled, after claiming the privilege against self-incrimination, to testify or produce evidence, documentary or otherwise, except that the individual is not exempt from prosecution and punishment for perjury or contempt committed in testifying.*

Subd. 5. [LEGAL ACTIONS; INJUNCTIONS; CEASE AND DESIST ORDERS.] *Whenever it appears to the commissioner that any person has engaged or is about to engage in any act or practice constituting a violation of chapters 45 to 83, 309, and 332, or any rule or order adopted under those chapters, the commissioner has the following powers: (1) the commissioner may bring an action in the name of the state in the district court of the appropriate county to enjoin the acts or practices and to enforce compliance with chapters 45 to 83, 309, and 332, or any rule or order adopted or issued under those chapters, or the commissioner may refer the matter to the attorney general or the county attorney of the appropriate county. Upon a proper showing, a permanent or temporary injunction, restraining order, or other appropriate relief must be granted; (2) the commissioner may issue and cause to be served upon the person an order requiring the person to cease and desist from violations of chapters 45 to 83, 309, and 332, or any rule or order adopted or issued under those chapters. The order must be calculated to give reasonable notice of the rights of the person to request a hearing and must state the reasons for the entry of the order. A hearing must be held not later than seven days after the request for the hearing is received by the commissioner, after which and within 20 days after receiving the administrative law judge's report, the commissioner shall issue a further order vacating the cease and desist order or making it permanent as the facts require. If no hearing is requested within 30 days of service of the order, the order will become final and will remain in effect until it is modified or vacated by the commissioner. Unless otherwise provided, all hearings must be conducted in*

accordance with chapter 14. If the person to whom a cease and desist order is issued fails to appear at the hearing after being duly notified, the person is in default, and the proceeding may be determined against that person upon consideration of the cease and desist order, the allegations of which may be considered to be true. The commissioner may adopt rules of procedure concerning all proceedings conducted under this subdivision.

Subd. 6. [VIOLATIONS AND PENALTIES.] The commissioner may impose a civil penalty not to exceed \$2,000 per violation upon a person who violates chapters 45 to 83, 309, and 332, unless a different penalty is specified.

Subd. 7. [ACTIONS AGAINST LICENSEES.] In addition to any other actions authorized by this section, the commissioner may, by order, deny, suspend, or revoke the authority or license of a person subject to chapters 45 to 83, 309, or 332, or censure that person if the commissioner finds that:

(1) the order is in the public interest; or

(2) the person has violated chapters 45 to 83, 309, or 332.

Subd. 8. [STOP ORDER.] In addition to any other actions authorized by this section, the commissioner may issue a stop order denying effectiveness to or suspending or revoking any registration subject to chapters 45 to 83, 309, or 332.

Subd. 9. [POWERS ADDITIONAL.] The powers contained in subdivisions 1 to 8 are in addition to all other powers of the commissioner.

Sec. 3. [45.027] [SERVICE OF PROCESS.]

Subdivision 1. [REQUIREMENT.] When a person, including any non-resident of this state, engages in conduct prohibited or made actionable by chapters 45 to 83, 309, and 332, or any rule or order under those chapters, and the person has not filed a consent to service of process under chapters 45 to 83, 309, and 332, that conduct is equivalent to an appointment of the commissioner as the person's attorney to receive service of process in any noncriminal suit, action, or proceeding against the person which is based on that conduct and is brought under chapters 45 to 83, 309, and 332, or any rule or order under those chapters.

Subd. 2. [HOW MADE.] Service of process under this section may be made by leaving a copy of the process in the office of the commissioner, and is not effective unless: (1) the plaintiff, who may be the commissioner in an action or proceeding instituted by the commissioner, sends notice of the service and a copy of the process by certified mail to the defendant or respondent at the last known address; and (2) the plaintiff's affidavit of compliance is filed in the action or proceeding on or before the return day of the process, if any, or within such further time as the court allows.

Sec. 4. [47.206] [INTEREST RATE COMMITMENTS.]

Subdivision 1. [DEFINITIONS.] For the purposes of this section, the terms defined in this subdivision have the meanings given them.

(a) "Lender" means any person or entity referred to in section 47.20, subdivision 1, or any person making a conventional loan as defined under section 47.20, subdivision 2, clause (3), or cooperative apartment loan as defined under section 47.20, subdivision 2, clause (4), except that conventional loans or cooperative apartment loans include any loan or

advance of credit in an original principal balance of less than \$200,000.

(b) "Loan" means all loans and advances of credit authorized under section 47.20, subdivision 1, clauses (1) to (4), and conventional loans as defined under section 47.20, subdivision 2, clause (3), or cooperative apartment loans as defined under section 47.20, subdivision 2, clause (4), except that conventional loans or cooperative apartment loans also include all such loans and advances of credit in an original principal balance of less than \$200,000.

(c) "Borrower" means a natural person who has submitted an application for a loan to a lender.

(d) "Commitment" means any promise or undertaking by a lender to make a loan, in the event the loan application is approved, at a particular rate of interest or points or both, and includes offers to lock in a rate of interest or points either indefinitely or for a specific time period.

Subd. 2. [DISCLOSURES; INTEREST RATE COMMITMENTS.] *A lender offering borrowers the opportunity to obtain a commitment for a rate of interest or points or both in advance of closing shall disclose, in writing, to the borrowers at the time the offer is made: (1) the expiration date or term of the commitment, which may not be less than the reasonably anticipated closing date or time required to process, approve, and close the loan; (2) the circumstances under which the borrower will be permitted to close at a lower rate of interest or points than expressed in the commitment under any circumstances; (3) that the commitment is enforceable by the borrower; and (4) any consideration required for the commitment.*

Subd. 3. [COMMITMENTS IN WRITING.] *If the lender permits the borrower to orally communicate his acceptance of a rate of interest or points, the commitment must be confirmed by an agreement in writing conforming to the requirements of section 513.33, subdivision 2, within three business days of the oral acceptance.*

Subd. 4. [LIABILITY.] *If a lender fails to honor a commitment for a rate of interest or points or causes unreasonable delay in obtaining the commitment and the failure or delay results in additional costs and expenses to the borrower, either to close the loan or secure a replacement loan, the lender is liable to the borrower for such costs and expenses. In addition, the lender is liable to the borrower for \$500 for each failure to honor a commitment or unreasonable delay in obtaining a commitment. This subdivision applies to a commitment entered into after January 1, 1987.*

Sec. 5. Minnesota Statutes 1986, section 60A.17, subdivision 6c, is amended to read:

Subd. 6c. [REVOCATION OR SUSPENSION OF LICENSE.] (a) *The commissioner may by order suspend or revoke an insurance agent's or agency's license issued to a natural person or impose a civil penalty appropriate to the offense, not to exceed \$5,000 upon that licensee, or both, if, after notice and hearing, the commissioner finds as to that licensee any one or more of the following conditions:*

(1) any materially untrue statement in the license application;

(2) any cause for which issuance of the license could have been refused had it then existed and been known to the commissioner at the time of issuance;

(3) violation of, or noncompliance with, any insurance law or violation of any rule or order of the commissioner or of a commissioner of insurance of another state or jurisdiction;

(4) obtaining or attempting to obtain any license through misrepresentation or fraud;

(5) improperly withholding, misappropriating, or converting to the licensee's own use any moneys belonging to a policyholder, insurer, beneficiary, or other person, received by the licensee in the course of the licensee's insurance business;

(6) misrepresentation of the terms of any actual or proposed insurance contract;

(7) conviction of a felony or of a gross misdemeanor or misdemeanor involving moral turpitude;

(8) that the licensee has been found guilty of any unfair trade practice, as defined in chapters 60A to 72A, or of fraud;

(9) that in the conduct of the agent's affairs under the license, the licensee has used fraudulent, coercive, or dishonest practices, or the licensee has been shown to be incompetent, untrustworthy, or financially irresponsible;

(10) that the agent's license has been suspended or revoked in any other state, province, district, territory, or foreign country;

(11) that the licensee has forged another's name to an application for insurance; or

(12) that the licensee has violated subdivision 6b.

(b) The commissioner may by order suspend or revoke an insurance agent's or insurance agency's license issued to a partnership or corporation or impose a civil penalty not to exceed \$5,000 upon that licensee, or both, if, after notice and hearing, the commissioner finds as to that licensee, or as to any partner, director, shareholder, officer, or employee of that licensee, any one or more of the conditions set forth in paragraph (a).

(c) A revocation of a license shall prohibit the licensee from making a new application for a license for at least one year. Further, the commissioner may, as a condition of relicensure, require the applicant to file a reasonable bond for the protection of the citizens of this state, which bond shall be maintained by the licensee in full force for a period of five years immediately following issuance of the license, unless the commissioner at the commissioner's discretion shall after two years permit the licensee to sooner terminate the maintenance filing of the bond.

(d) Whenever it appears to the commissioner that any person has engaged or is about to engage in any act or practice constituting a violation of chapters 60A to 72A or of any rule or order of the commissioner:

(1) The commissioner may issue and cause to be served upon the person an order requiring the person to cease and desist from the violation. The order shall give reasonable notice of the time and place of hearing and shall state the reasons for the entry of the order. A hearing shall be held not later than seven days after the issuance of the order unless the person requests a delay. After the hearing and within 30 days of filing of any exceptions to the administrative law judge's report, the commissioner shall issue an order vacating the cease and desist order or making it permanent

as the facts require. All hearings shall be conducted in accordance with the provisions of chapter 14. If the person to whom a cease and desist order is issued fails to appear at the hearing after being duly notified, the person shall be deemed in default, and the proceeding may be determined against the person upon consideration of the cease and desist order, the allegations of which may be deemed to be true;

(2) The commissioner may bring an action in the district court in the appropriate county to enjoin the acts or practices and to enforce compliance with chapters 60A to 72A and any rule or order of the commissioner; and

(3) In any proceeding under chapters 60A to 72A relating to injunction, the request for injunction may be brought on for hearing and disposition upon an order to show cause returnable upon not more than eight days notice to the defendant. The case shall have precedence over other matters on the court calendar and shall not be continued without the consent of the state of Minnesota, except upon good cause shown to the court, and then only for a reasonable length of time as may be necessary in the opinion of the court to protect the rights of the defendant.

(e) The commissioner may, in the manner prescribed by chapter 14, impose a civil penalty not to exceed \$5,000 upon a person whose license has lapsed, or been suspended, revoked, or otherwise terminated, for engaging in conduct prohibited by paragraph (a) before, during, or after the period of licensure.

Sec. 6. Minnesota Statutes 1986, section 80A.06, subdivision 5, is amended to read:

Subd. 5. No investment adviser who shall recommend the purchase or sale of a security to a client, and no licensed broker-dealer acting as a broker-dealer for a customer in the purchase or sale of a security shall take or accept any remuneration or other thing of value from any person other than the client or customer in connection with ~~such the~~ purchase or sale unless, prior to or contemporaneously with ~~such the~~ recommendation in the case of an investment adviser and prior to or contemporaneously with the confirmation of the transaction in the case of a licensed broker-dealer so acting, written disclosure to the client or customer is made of the acceptance or intended acceptance of ~~such the~~ remuneration or other thing of value and of the amount ~~thereof of it~~. All charges made by an investment adviser for services and all charges by a licensed broker-dealer for services rendered as a broker-dealer or for advice with respect to securities shall be reasonable, and *except in compliance with rules adopted by the commissioner*, no ~~such~~ charges shall be based upon or measured by profits accrued or to accrue from transactions recommended or carried out by an investment adviser, or licensed broker-dealer. This subdivision shall not be construed to prohibit charges by an investment adviser based upon the total value of the assets under management averaged over a definite period, or as of definite dates, or taken as of a definite date, nor charges based upon the performance of the managed assets as compared to an established index in compliance with rules ~~promulgated~~ *adopted* by the commissioner.

Sec. 7. Minnesota Statutes 1986, section 80A.07, subdivision 1, is amended to read:

Subdivision 1. The commissioner may by order deny, suspend, or revoke any license or may censure the licensee, if the commissioner finds (a) that the order is in the public interest and (b) that the applicant or licensee or,

in the case of a broker-dealer or investment adviser, any partner, officer, or director, any person occupying a similar status or performing similar functions, or any person directly or indirectly controlling the broker-dealer or investment adviser:

(1) has filed an application for license which as of its effective date, or as of any date after filing in the case of an order denying effectiveness, was incomplete in any material respect or contained any statement which was, in light of the circumstances under which it was made, false or misleading with respect to any material fact;

(2) has willfully violated or failed to comply with any provision of this chapter or a predecessor law or any provision of the Securities Act of 1933, the Securities Exchange Act of 1934, the Investment Advisers Act of 1940, the Investment Company Act of 1940, the Commodity Exchange Act, or any rule or order under any of these statutes, ~~or any order thereunder~~ of which that person has notice and is subject;

(3) has been convicted, within the past ten years, of any misdemeanor involving a security or any aspect of the securities business, or any felony;

(4) is permanently or temporarily enjoined by any court of competent jurisdiction from engaging in or continuing any conduct or practice involving any aspect of the securities business;

(5) is the subject of an order of the commissioner denying, suspending, or revoking a license as a broker-dealer, agent or investment adviser;

(6) is the subject of an order entered within the past five years by the securities administrator of any other state or by the securities and exchange commission denying or revoking registration or license as a broker-dealer, agent, or investment adviser, or is the subject of an order of the securities and exchange commission suspending or expelling that person from a national securities exchange or association registered under the Securities Exchange Act of 1934, or is the subject of a United States post office fraud order. The commissioner may not institute a revocation or suspension proceeding under this clause more than one year from the date of the order relied on, and may not enter an order under this clause on the basis of an order under another state law unless the order was based on facts which would currently constitute a ground for an order under this section;

(7) has engaged in dishonest or fraudulent practices in the securities business;

(8) has failed to maintain the minimum net capital or to comply with the limitation on aggregate indebtedness which the commissioner by rule prescribes;

(9) is not qualified on the basis of such factors as training, experience, and knowledge of the securities business;

(10) has failed reasonably to supervise agents, investment adviser representatives, or employees to assure their compliance with this chapter;

(11) has failed to pay the proper filing fee, but the commissioner shall vacate the order when the deficiency has been corrected;

(12) has offered or sold securities in this state through any unlicensed agent;

(13) has made any material misrepresentation to the commissioner, or

upon request reasonably made by the commissioner, has withheld or concealed information from, or refused to furnish information to, the commissioner; or

(14) has failed to reasonably supervise agents, investment adviser representatives, or employees if that person has assumed or has been designated to carry out the supervisory procedures of the broker-dealer or investment adviser; or

(15) has failed, within 20 business days after receiving written instructions from a customer, to do any of the following:

(a) transfer or deliver securities which have been purchased;

(b) transfer or deliver any free credit balances reflecting completed transactions; or

(c) transfer or deliver a customer's account securities positions and balances to another broker-dealer.

This clause shall not serve as a basis for denial, suspension, or revocation of a broker-dealer's or agent's license if: (i) the transfer or delivery is between broker-dealers and meets the rules and requirements established by the New York stock exchange with regard to such transfers or deliveries; or (ii) the delivery of securities to a customer cannot be accomplished within 20 business days, and the broker-dealer or agent has notified the customer in writing of the inability to deliver the securities and the reasons for the nondelivery within 20 business days of receiving the customer's written instructions.

Sec. 8. Minnesota Statutes 1986, section 80A.09, subdivision 1, is amended to read:

Subdivision 1. The following securities may be registered by notification:

(a) any industrial revenue bond issued by the state of Minnesota or any of its political subdivisions, municipalities, governmental agencies, or instrumentalities; and

(b) any securities issued by a person organized exclusively for social, religious, educational, benevolent, fraternal, charitable, reformatory, athletic, chamber of commerce, trade, industrial development, or professional association purposes and not for pecuniary gain, and no part of the net earnings of which inures to the benefit of any private stockholder or individual; provided that no securities issued by any person offering and furnishing a burial service or funeral benefit, directly or indirectly for financial consideration, may be registered under this section.

Sec. 9. Minnesota Statutes 1986, section 80A.12, is amended by adding a subdivision to read:

Subd. 11. Within two business days after receipt of an order of the commissioner withdrawing, suspending, or revoking effectiveness of an issuer's registration statement, the issuer must notify all persons making a market in the issuer's securities of the termination of the effectiveness of the registration statement. Failure to provide this notice may result in the imposition of a civil penalty not to exceed \$2,000 per violation.

Sec. 10. Minnesota Statutes 1986, section 80A.14, subdivision 18, is amended to read:

Subd. 18. [SECURITY.] (a) "Security" means any note; stock; treasury stock; bond; debenture; evidence of indebtedness; certificate of interest or participation in any profit sharing agreement; collateral trust certificate; preorganization certificate or subscription; transferable shares; investment contract; investment metal contract or investment gem contract; voting trust certificate; certificate of deposit for a security; certificate of interest or participation in an oil, gas or mining right, title or lease or in payments out of production under the right, title or lease; or, in general, any interest or instrument commonly known as a security, or any certificate of interest or participation in, temporary or interim certificate for, receipt for guarantee of, or warrant or right to subscribe to or purchase, any of the foregoing. "Security" does not include:

(a) any insurance or endowment policy or annuity contract under which an insurance company promises to pay money either in a lump sum or periodically for life or for some other specified period; or

(b) *stock of a closely-held corporation offered or sold pursuant to a transaction in which 100 percent of the stock of that corporation is sold as a means to effect the sale of the business of the corporation if the transaction has been negotiated on behalf of all purchasers, and if all purchasers have access to inside information regarding the corporation before consummating the transaction.*

Sec. 11. Minnesota Statutes 1986, section 80A.15, subdivision 1, is amended to read:

Subdivision 1. The following securities are exempted from sections 80A.08 and 80A.16:

(a) Any security, including a revenue obligation, ~~issued or~~ guaranteed by the United States, any state, any political subdivision of a state or any corporate or other instrumentality of one or more of the foregoing; but this exemption shall not include any industrial revenue bond. Pursuant to section 106(c) of the Secondary Mortgage Market Enhancement Act of 1984, Public Law Number 98-440, this exemption does not apply to a security that is offered or sold pursuant to section 106(a)(1) or (2) of that act.

(b) Any security issued or guaranteed by Canada, any Canadian province, any political subdivision of any province, any agency or corporate or other instrumentality of one or more of the foregoing, if the security is recognized as a valid obligation by the issuer or guarantor; but this exemption shall not include any revenue obligation payable solely from payments to be made in respect of property or money used under a lease, sale or loan arrangement by or for a nongovernmental industrial or commercial enterprise.

(c) Any security issued by and representing an interest in or a debt of, or guaranteed by, any bank organized under the laws of the United States, or any bank, savings institution or trust company organized under the laws of any state and subject to regulation in respect of the issuance or guarantee of its securities by a governmental authority of that state.

(d) Any security issued by and representing an interest in or a debt of, or guaranteed by, any federal savings and loan association, or any building and loan or similar association organized under the laws of any state and authorized to do business in this state.

(e) Any security issued or guaranteed by any federal credit union or any credit union, or similar association organized and supervised under the

laws of this state.

(f) Any security listed or approved for listing upon notice of issuance on the New York Stock Exchange, the American Stock Exchange, the Midwest Stock Exchange, the Pacific Stock Exchange, or the Chicago Board Options Exchange; any other security of the same issuer which is of senior or substantially equal rank; any security called for by subscription rights or warrants so listed or approved; or any warrant or right to purchase or subscribe to any of the foregoing.

(g) Any commercial paper which arises out of a current transaction or the proceeds of which have been or are to be used for current transactions, and which evidences an obligation to pay cash within nine months of the date of issuance, exclusive of days of grace, or any renewal of the paper which is likewise limited, or any guarantee of the paper or of any renewal which are not advertised for sale to the general public in newspapers or other publications of general circulation or otherwise, or by radio, television or direct mailing.

(h) Any interest in any employee's savings, stock purchase, pension, profit sharing or similar benefit plan, or a self-employed person's retirement plan.

(i) Any security issued or guaranteed by any railroad, other common carrier or public utility which is subject to regulation in respect to the issuance or guarantee of its securities by a governmental authority of the United States.

(j) Any interest in a common trust fund or similar fund maintained by a state bank or trust company organized and operating under the laws of Minnesota, or a national bank wherever located, for the collective investment and reinvestment of funds contributed thereto by the bank or trust company in its capacity as trustee, executor, administrator, or guardian; and any interest in a collective investment fund or similar fund maintained by the bank or trust company, or in a separate account maintained by an insurance company, for the collective investment and reinvestment of funds contributed thereto by the bank, trust company or insurance company in its capacity as trustee or agent, which interest is issued in connection with an employee's savings, pension, profit sharing or similar benefit plan, or a self-employed person's retirement plan.

(k) Any security which meets all of the following conditions:

(1) If the issuer is not organized under the laws of the United States or a state, it has appointed a duly authorized agent in the United States for service of process and has set forth the name and address of the agent in its prospectus;

(2) A class of the issuer's securities is required to be and is registered under section 12 of the Securities Exchange Act of 1934, and has been so registered for the three years immediately preceding the offering date;

(3) Neither the issuer nor a significant subsidiary has had a material default during the last seven years, or for the period of the issuer's existence if less than seven years, in the payment of (i) principal, interest, dividend, or sinking fund installment on preferred stock or indebtedness for borrowed money, or (ii) rentals under leases with terms of three years or more;

(4) The issuer has had consolidated net income, before extraordinary items and the cumulative effect of accounting changes, of at least \$1,000,000 in four of its last five fiscal years including its last fiscal year; and if the

offering is of interest bearing securities, has had for its last fiscal year, net income, before deduction for income taxes and depreciation, of at least 1-1/2 times the issuer's annual interest expense, giving effect to the proposed offering and the intended use of the proceeds. For the purposes of this clause "last fiscal year" means the most recent year for which audited financial statements are available, provided that such statements cover a fiscal period ended not more than 15 months from the commencement of the offering;

(5) If the offering is of stock or shares other than preferred stock or shares, the securities have voting rights and the rights include (i) the right to have at least as many votes per share, and (ii) the right to vote on at least as many general corporate decisions, as each of the issuer's outstanding classes of stock or shares, except as otherwise required by law; and

(6) If the offering is of stock or shares, other than preferred stock or shares, the securities are owned beneficially or of record, on any date within six months prior to the commencement of the offering, by at least 1,200 persons, and on that date there are at least 750,000 such shares outstanding with an aggregate market value, based on the average bid price for that day, of at least \$3,750,000. In connection with the determination of the number of persons who are beneficial owners of the stock or shares of an issuer, the issuer or broker-dealer may rely in good faith for the purposes of this clause upon written information furnished by the record owners.

(l) Any certificate of indebtedness sold or issued for investment, other than a certificate of indebtedness pledged as a security for a loan made contemporaneously therewith, and any savings account or savings deposit issued, by an industrial loan and thrift company.

Sec. 12. Minnesota Statutes 1986, section 80A.15, subdivision 2, is amended to read:

Subd. 2. The following transactions are exempted from sections 80A.08 and 80A.16:

(a) Any isolated sales, whether or not effected through a broker-dealer, provided that no person shall make more than ten sales of securities of the same issuer pursuant to this exemption during any period of 12 consecutive months; provided further, that in the case of sales by an issuer, except sales of securities registered under the Securities Act of 1933 or exempted by section 3(b) of that act, (1) the seller reasonably believes that all buyers are purchasing for investment, and (2) the securities are not advertised for sale to the general public in newspapers or other publications of general circulation or otherwise, or by radio, television, electronic means or similar communications media, or through a program of general solicitation by means of mail or telephone.

(b) Any nonissuer distribution of an outstanding security if (1) either Moody's, Fitch's, or Standard & Poor's Securities Manuals, or other recognized manuals approved by the commissioner contains the names of the issuer's officers and directors, a balance sheet of the issuer as of a date not more than 18 months prior to the date of the sale, and a profit and loss statement for the fiscal year preceding the date of the balance sheet, and (2) the issuer or its predecessor has been in active, continuous business operation for the five-year period next preceding the date of sale, and (3) if the security has a fixed maturity or fixed interest or dividend provision,

the issuer has not, within the three preceding fiscal years, defaulted in payment of principal, interest, or dividends on the securities.

(c) The execution of any orders by a licensed broker-dealer for the purchase or sale of any security, pursuant to an unsolicited offer to purchase or sell; provided that the broker-dealer acts as agent for the purchaser or seller, and has no direct material interest in the sale or distribution of the security, receives no commission, profit, or other compensation from any source other than the purchaser and seller and delivers to the purchaser and seller written confirmation of the transaction which clearly itemizes the commission, or other compensation.

(d) Any nonissuer sale of notes or bonds secured by a mortgage lien if the entire mortgage, together with all notes or bonds secured thereby, is sold to a single purchaser at a single sale.

(e) Any judicial sale, exchange, or issuance of securities made pursuant to an order of a court of competent jurisdiction.

(f) The sale, by a pledge holder, of a security pledged in good faith as collateral for a bona fide debt.

(g) Any offer or sale to a bank, savings institution, trust company, insurance company, investment company as defined in the Investment Company Act of 1940, pension or profit sharing trust, or other financial institution or institutional buyer, or to a broker-dealer, whether the purchaser is acting for itself or in some fiduciary capacity.

(h) Any sales by an issuer to the number of persons that shall not exceed 25 persons in this state, or 35 persons if the sales are made in compliance with Regulation D promulgated by the Securities and Exchange Commission, Code of Federal Regulations, title 17, sections 230.501 to 230.506, (other than those designated in paragraph (a) or (g)), whether or not any of the purchasers is then present in this state, if (1) the issuer reasonably believes that all of the buyers in this state (other than those designated in clause (g)) are purchasing for investment, and (2) no commission or other remuneration is paid or given directly or indirectly for soliciting any prospective buyer in this state (other than those designated in clause (g)), except reasonable and customary commissions paid by the issuer to a broker-dealer licensed under this chapter, and (3) the issuer has, ten days prior to any sale pursuant to this paragraph, supplied the commissioner with a statement of issuer on forms prescribed by the commissioner, containing the following information: (i) the name and address of the issuer, and the date and state of its organization; (ii) the number of units, price per unit, and a description of the securities to be sold; (iii) the amount of commissions to be paid and the persons to whom they will be paid; (iv) the names of all officers, directors and persons owning five percent or more of the equity of the issuer; (v) a brief description of the intended use of proceeds; (vi) a description of all sales of securities made by the issuer within the six-month period next preceding the date of filing; and (vii) a copy of the investment letter, if any, intended to be used in connection with any sale. Sales that are made more than six months before the start of an offering made pursuant to this exemption or are made more than six months after completion of an offering made pursuant to this exemption will not be considered part of the offering, so long as during those six-month periods there are no sales of unregistered securities (other than those made pursuant to paragraph (a) or (g)) by or for the issuer that are of the same or similar class as those sold under this exemption. The commissioner may by rule

or order as to any security or transaction or any type of security or transaction, withdraw or further condition this exemption, or increase the number of offers and sales permitted, or waive the conditions in clause (1), (2), or (3) with or without the substitution of a limitation or remuneration.

(i) Any offer (but not a sale) of a security for which a registration statement has been filed under sections 80A.01 to 80A.31, if no stop order or refusal order is in effect and no public proceeding or examination looking toward an order is pending; and any offer of a security if the sale of the security is or would be exempt under this section. The commissioner may by rule exempt offers (but not sales) of securities for which a registration statement has been filed as the commissioner deems appropriate, consistent with the purposes of sections 80A.01 to 80A.31.

(j) The offer and sale by a cooperative association organized under chapter 308, of its securities when the securities are offered and sold only to its members, or when the purchase of the securities is necessary or incidental to establishing membership in such association, or when such securities are issued as patronage dividends.

(l) The issuance and delivery of any securities of one corporation to another corporation or its security holders in connection with a merger, exchange of shares, or transfer of assets whereby the approval of stockholders of the other corporation is required to be obtained, provided, that the commissioner has been furnished with a general description of the transaction and with other information as the commissioner by rule prescribes not less than ten days prior to the issuance and delivery.

(m) Any transaction between the issuer or other person on whose behalf the offering is made and an underwriter or among underwriters.

(n) The distribution by a corporation of its or other securities to its own security holders as a stock dividend or as a dividend from earnings or surplus or as a liquidating distribution; or upon conversion of an outstanding convertible security; or pursuant to a stock split or reverse stock split.

(o) Any offer or sale of securities by an affiliate of the issuer thereof if: (1) a registration statement is in effect with respect to securities of the same class of the issuer and (2) the offer or sale has been exempted from registration by rule or order of the commissioner.

(p) Any transaction pursuant to an offer to existing security holders of the issuer, including persons who at the time of the transaction are holders of convertible securities, nontransferable warrants, or transferable warrants exercisable within not more than 90 days of their issuance, if: (1) no commission or other remuneration (other than a standby commission) is paid or given directly or indirectly for soliciting any security holder in this state; and (2) the commissioner has been furnished with a general description of the transaction and with other information as the commissioner may by rule prescribe no less than ten days prior to the transaction.

(q) Any nonissuer sales of industrial revenue bonds issued by the state of Minnesota or any of its political or governmental subdivisions, municipalities, governmental agencies, or instrumentalities.

Sec. 13. Minnesota Statutes 1986, section 80A.19, subdivision 1, is amended to read:

Subdivision 1. This chapter shall be administered by the commissioner of commerce. ~~The commissioner shall appoint two deputy commissioners~~

and shall file with the secretary of state an order delegating authority to one of such deputy commissioners to exercise all of the rights and powers and perform all of the duties of the commissioner during the disability of the commissioner, the commissioner's absence from the office or during a vacancy in the office of the commissioner pending the filling thereof as provided by law.

Sec. 14. Minnesota Statutes 1986, section 82.17, subdivision 4, is amended to read:

Subd. 4. "Real estate broker" or "broker" means any person who:

(a) for another and for commission, fee or other valuable consideration or with the intention or expectation of receiving the same directly or indirectly lists, sells, exchanges, buys or rents, manages, or offers or attempts to negotiate a sale, option, exchange, purchase or rental of an interest or estate in real estate, or advertises or holds out as engaged in these activities;

(b) for another and for commission, fee or other valuable consideration or with the intention or expectation of receiving the same directly or indirectly negotiates or offers or attempts to negotiate a loan, secured or to be secured by a mortgage or other encumbrance on real estate;

(c) for another and for commission, fee or other valuable consideration or with the intention or expectation of receiving the same directly or indirectly lists, sells, exchanges, buys, rents, manages, offers or attempts to negotiate a sale, option, exchange, purchase or rental of any business opportunity or business, or its good will, inventory, or fixtures, or any interest therein;

(d) for another and for commission, fee or other valuable consideration or with the intention or expectation of receiving the same directly or indirectly offers, sells or attempts to negotiate the sale of property that is subject to the registration requirements of chapter 83, concerning subdivided land;

(e) engages in the business of charging an advance fee or contracting for collection of a fee in connection with any contract whereby the person undertakes to promote the sale of real estate through its listing in a publication issued primarily for this purpose;

(f) engages wholly or in part in the business of selling real estate to the extent that a pattern of real estate sales is established, whether or not the real estate is owned by the person. A person shall be presumed to be engaged in the business of selling real estate if the person engages as principal in five or more transactions during any 12-month period, unless the person is represented by a licensed real estate broker or salesperson;

(g) offers or makes more than five conventional loans under section 47-20 secured by real estate during any 12-month period and who is not a bank, savings bank, mutual savings bank, building and loan association, or savings and loan association organized under the laws of this state or the United States, trust company, trust company acting as a fiduciary, or other financial institution subject to the supervision of the commissioner of commerce, or mortgagee or lender approved or certified by the secretary of housing and urban development or approved or certified by the administrator of veterans affairs, or approved or certified by the administrator of the Farmers Home Administration, or approved or certified by the Federal Home Loan Mortgage Corporation, or approved or certified by the Federal

National Mortgage Association.

Sec. 15. Minnesota Statutes 1986, section 82.19, subdivision 3, is amended to read:

Subd. 3. No real estate broker or salesperson shall offer, pay or give, and no person shall accept, any compensation or other thing of value from any real estate broker or salesperson by way of commission-splitting, rebate, finder's fees or otherwise, in connection with any real estate or business opportunity transaction; provided this subdivision does not apply to transactions (1) between a licensed real estate broker or salesperson and the person by whom the broker or salesperson is engaged to purchase or sell real estate or business opportunity, (2) among persons licensed as provided herein, and (3) between a licensed real estate broker or salesperson and persons from other jurisdictions similarly licensed in that jurisdiction, and (4) involving timeshare or other recreational lands where the amount offered or paid does not exceed \$150, and payment is not conditioned upon any sale but is made merely for providing the referral and the person paying the fee is bound by any representations the person receiving the fee makes. A licensed real estate broker or salesperson may assign or direct that commissions or other compensation earned in connection with any real estate or business opportunity transaction be paid to a corporation of which the licensed real estate broker or salesperson is the sole owner.

Sec. 16. Minnesota Statutes 1986, section 82.21, subdivision 1, is amended to read:

Subdivision 1. [AMOUNTS.] The following fees shall be paid to the commissioner:

(a) A fee of \$50 for each initial individual broker's license, and a fee of \$25 for each annual renewal thereof;

(b) A fee of \$25 for each initial salesperson's license, and a fee of \$10 for each annual renewal thereof;

(c) A fee of \$50 for each initial corporate or partnership license, and a fee of \$25 for each annual renewal thereof;

(d) A fee not to exceed \$40 per year for payment to the education, research and recovery fund in accordance with section 82.34;

(e) A fee of \$10 for each transfer;

(f) A fee of \$25 for a corporation or partnership name change;

(g) A fee of \$5 for an agent name change;

(h) A fee of \$10 for a license history;

(i) A fee of \$15 for a NSF check;

(j) A fee of \$50 for an initial course approval;

(k) A fee of \$10 for notices of repeat course offerings;

(l) A fee of \$50 for instructor or coordinator approval; and

(m) A fee of \$5 for a duplicate license; and

(j) A fee of \$5 for each hour or fraction of one hour of course approval sought.

Sec. 17. Minnesota Statutes 1986, section 82.22, subdivision 6, is amended to read:

Subd. 6. [INSTRUCTION; NEW LICENSES.] (a) After January 1, 1987, every applicant for a salesperson's license shall be required to successfully complete a course of study in the real estate field consisting of 30 hours of instruction approved by the commissioner before taking the examination specified in subdivision 1. After January 1, 1987, every applicant for a salesperson's license shall be required to successfully complete an additional course of study in the real estate field consisting of 60 hours of instruction approved by the commissioner before filing an application for the license. Every salesperson licensed after January 1, 1987, shall, within one year of licensure, be required to successfully complete a course of study in the real estate field consisting of 30 hours of instruction approved by the commissioner.

(b) After December 31, 1983, and before January 1, 1987, every applicant for a salesperson's license shall be required to successfully complete a course of study in the real estate field consisting of 30 hours of instruction approved by the commissioner before taking the examination specified in subdivision 1. After December 31, 1983, and before January 1, 1987, every applicant for a salesperson's license shall be required to successfully complete an additional course of study in the real estate field consisting of 30 hours of instruction approved by the commissioner before filing an application for the license. Every salesperson licensed after December 31, 1983, and before January 1, 1987, shall, within one year of the date a license was first issued, be required to successfully complete a course of study in the real estate field consisting of 30 hours of instruction approved by the commissioner.

(c) The commissioner may approve courses of study in the real estate field offered in educational institutions of higher learning in this state or courses of study in the real estate field developed by and offered under the auspices of the national association of realtors, its affiliates, or private real estate schools. *The commissioner shall not approve any course offered by, sponsored by, or affiliated with any person or company licensed to engage in the real estate business.* The commissioner may by rule prescribe the curriculum and qualification of those employed as instructors.

(d) *After January 1, 1988, an applicant for a broker's license must successfully complete a course of study in the real estate field consisting of 30 hours of instruction approved by the commissioner. The course must have been completed within six months prior to the date of application for the broker's license.*

Sec. 18. Minnesota Statutes 1986, section 82.24, subdivision 2, is amended to read:

Subd. 2. [LICENSEE ACTING AS PRINCIPAL.] ~~Any licensed A real estate broker or salesperson licensee acting in the capacity of principal in the sale or rental of interests in a real estate owned or rented by the licensee transaction where the seller retains any liability, contingent or otherwise, for the payment of an obligation on the property shall deposit in a Minnesota bank or trust company, any foreign bank which authorizes the commissioner to examine its records of the deposits, or an industrial loan and thrift company organized under chapter 53 with deposit liabilities, in a trust account, those parts of all payments received on contracts that are necessary to meet any amounts concurrently due and payable on any existing~~

mortgages, contracts for deed or other conveyancing instruments, and reserve for taxes and insurance or any other encumbrance on the receipts. The deposits must be maintained until disbursement is made under the terms of the encumbrance and proper accounting on the property made to the parties entitled to an accounting. The provisions of this subdivision relating to rental of interests in real estate apply only to single-family residential property.

Sec. 19. Minnesota Statutes 1986, section 82.34, subdivision 19, is amended to read:

Subd. 19. The commissioner shall include in the annual report of the department of commerce pursuant to section 45.033, on or before October 1 in each even-numbered year, prepare and file in the office of the governor for the preceding two fiscal years ending June 30 a report on the activities of the real estate education, research and recovery fund; noting the amount of money received by the fund, the amount of money expended and the purposes therefor.

Sec. 20. Minnesota Statutes 1986, section 308.12, is amended by adding a subdivision to read:

Subd. 5. Notwithstanding the provisions of section 345.43, a cooperative association organized under the laws of this state may, in lieu of paying or delivering to the commissioner of commerce the unclaimed property specified in its report of unclaimed property, distribute the unclaimed property to a corporation or organization which is exempt from taxation under section 290.05, subdivision 1, paragraph (b), or 2. A cooperative association making this election shall, within 20 days after the time specified in section 345.42 for claiming the property from the holder, file with the commissioner a verified written explanation of the proof of claim of any owner establishing a right to receive the abandoned property; any error in the presumption of abandonment; and the name, address, and exemption number of the corporation or organization to which the property was or is to be distributed and the approximate date of distribution. Nothing in this subdivision alters the procedure provided in sections 345.41 and 345.42 whereby cooperative associations report unclaimed property to the commissioner and claims of owners are made to the cooperative associations for a period of 65 days following the publication of lists of abandoned property. The rights of an owner to unclaimed property held by a cooperative association is extinguished upon the disbursement of the property by the cooperative association to a tax-exempt organization in accordance with this section.

Sec. 21. Minnesota Statutes 1986, section 309.50, subdivision 6, is amended to read:

Subd. 6. "Professional fund raiser" means any person who for financial compensation or profit participates in public solicitation in this state of contributions for, or on behalf of any charitable organization performs for a charitable organization any service in connection with which contributions are, or will be, solicited in this state by such compensated person or by any compensated person he or she employs, procures, or engages to solicit; or any person who for compensation or profit plans, manages, advises, consults, or prepares material for, or with respect to, the solicitation in this state of contributions for a charitable organization. No investment adviser, investment adviser representative, broker-dealer, or agent licensed pursuant to chapter 80A, or lawyer, accountant, or banker who

advises a person to make a charitable contribution or who provides legal, accounting, or financial advice in the ordinary course of their profession or business shall be deemed, as a result of such advice, to be a professional fund raiser. A bona fide salaried officer or, employee, or volunteer of a charitable organization is not a professional fund raiser unless the officer's or employee's salary or other compensation is computed on the basis of funds to be raised, or actually raised.

Sec. 22. Minnesota Statutes 1986, section 309.515, subdivision 1, is amended to read:

Subdivision 1. Subject to the provisions of subdivisions 2 and 3, sections 309.52 and 309.53 shall not apply to any of the following:

(a) Charitable organizations:

(1) which did not receive total contributions in excess of ~~\$10,000~~ \$25,000 from the public within or without this state during the accounting year last ended, and

(2) which do not plan to receive total contributions in excess of such amount from the public within or without this state during any accounting year, and

(3) whose functions and activities, including fund raising, are performed wholly by persons who are unpaid for their services, and

(4) none of whose assets or income inure to the benefit of or are paid to any officer.

For purposes of this chapter, a charitable organization shall be deemed to receive in addition to contributions solicited from the public by it, the contributions solicited from the public by any other person and transferred to it. Any organization constituted for a charitable purpose receiving an allocation from a community chest, united fund or similar organization shall be deemed to have solicited that allocation from the public.

(b) A religious society or organization which is exempt from filing a federal annual information return pursuant to Internal Revenue Code, section 6033(a)(2)(A)(i) and (iii), and Internal Revenue Code, section 6033(a)(2)(C)(i).

(c) Any educational institution which is under the general supervision of the state board of education, the state university board, the state board for community colleges, or the University of Minnesota or any educational institution which is accredited by the University of Minnesota or the North Central association of colleges and secondary schools, or by any other national or regional accrediting association.

(d) A fraternal, patriotic, social, educational, alumni, professional, trade or learned society which limits solicitation of contributions to persons who have a right to vote as a member. The term "member" shall not include those persons who are granted a membership upon making a contribution as the result of a solicitation.

(e) A charitable organization soliciting contributions for any person specified by name at the time of the solicitation if all of the contributions received are transferred to the person named with no restrictions on the person's expenditure of it and with no deductions whatsoever.

(f) A private foundation, as defined in section 509(a) of the Internal

Revenue Code of 1954, which did not solicit contributions from more than 100 persons during the accounting year last ended.

Sec. 23. Minnesota Statutes 1986, section 309.52, subdivision 1a, is amended to read:

Subd. 1a. A charitable organization whose total contributions received during any accounting year are in excess of ~~\$10,000~~ \$25,000 shall file a registration statement with the ~~department~~ attorney general within 30 days after the date on which the organization's total contributions exceeded ~~\$10,000~~ \$25,000. The registration shall exist unless revoked by a court of competent jurisdiction, or the ~~department~~ attorney general, or as provided in subdivision 7. This subdivision shall not apply to a charitable organization which had filed a registration statement pursuant to this section for the accounting year last ended or to organizations described in section 309.515, subdivision 1.

Sec. 24. Minnesota Statutes 1986, section 309.52, subdivision 2, is amended to read:

Subd. 2. The first registration statement filed by a charitable organization shall include a *registration fee of \$25* and a financial statement of ~~its~~ *the organization's* operation for its most recent 12 months period immediately preceding the filing of the first registration statement.

Sec. 25. Minnesota Statutes 1986, section 309.53, subdivision 1a, is amended to read:

Subd. 1a. A charitable organization may, but need not, file an annual report pursuant to this section if the organization:

(a) Did not receive total contributions in excess of ~~\$10,000~~ \$25,000 from the public within or without this state during the accounting year last ended.

(b) Does not plan to receive total contributions in excess of ~~\$10,000~~ \$25,000 from the public within or without this state during any accounting year, and

(c) Does not employ a professional fund raiser.

Sec. 26. Minnesota Statutes 1986, section 309.53, subdivision 3, is amended to read:

Subd. 3. The financial statement shall include a balance sheet, statement of income and expense, and statement of functional expenses, shall be consistent with forms furnished by the ~~department~~ attorney general, and shall be prepared in accordance with generally accepted accounting principles so as to make a full disclosure of the following, including necessary allocations between each item and the basis of such allocations:

(a) Total receipts and total income from all sources;

(b) Cost of management and general;

(c) Cost of fund raising;

(d) Cost of public education;

(e) Funds or properties transferred out of state, with explanation as to recipient and purpose;

(f) Total net amount disbursed or dedicated within this state, broken down into total amounts disbursed or dedicated for each major purpose, charitable

or otherwise;

(g) Names of professional fund raisers used during the accounting year and the financial compensation or profit resulting to each professional fund raiser. Unless otherwise required by this subdivision, the financial statement need not be certified.

A financial statement of a charitable organization which has solicited from the public within or outside this state total contributions in excess of \$50,000 \$100,000 for the 12 months of operation covered by the statement shall be accompanied by an opinion signed by a certified public accountant that such statement fairly represents the financial operations of the charitable organization in sufficient detail to permit public evaluation of its operations an audited financial statement prepared in accordance with generally accepted accounting principles which has been examined by an independent certified public accountant for the purpose of expressing an opinion thereon. In giving such opinion preparing the audit the certified public accountant shall take into consideration capital, endowment or other reserve funds, if any, controlled by the charitable organization. The opinion need not conform to the wording of the opinion form of the annual report forms provided by the department.

Sec. 27. Minnesota Statutes 1986, section 309.53, subdivision 4, is amended to read:

Subd. 4. Where a registration statement has been filed by a parent organization or affiliate as provided in section 309.52, subdivision 4, the registered parent organization may file the annual report required under this section on behalf of the chapter, branch, area office, similar affiliate or person in addition to or as part of its own report or the registered affiliate may file the annual report required under this section on behalf of the parent organization in addition to or as part of its own report. The accounting information required under this section shall be set forth separately and not in consolidated form with respect to every chapter, branch, area office, similar affiliate or person within the state which raises or expends more than \$10,000 \$25,000. The department of commerce attorney general may permit any chapter, branch, area office, similar affiliate or person to file a consolidated statement with any other chapter, branch, area office, similar affiliate or person or parent organization if the attorney general determines that the interests of the charitable beneficiaries will not be prejudiced thereby and that separate accounting information is not required for proper supervision.

Sec. 28. Minnesota Statutes 1986, section 309.53, is amended by adding a subdivision to read:

Subd. 8. A reregistration fee of \$25 shall be paid by every charitable organization submitting the annual report required by this section.

Sec. 29. Minnesota Statutes 1986, section 309.531, is amended to read:

309.531 [LICENSING REGISTRATION OF PROFESSIONAL FUND RAISERS; BOND REQUIRED.]

Subdivision 1. No person shall act as a professional fund raiser unless licensed by registered with the department attorney general. Applications for a license The registration statement as hereinafter described shall be in writing, under oath, in the form prescribed by the department attorney general and shall be accompanied by an application fee of \$25 \$50. Each

license registration shall be effective for a period of not more than 12 months from the date of issuance, and in any event shall expire on July 30 next following the date of issuance. *The registration may be renewed for additional one-year periods upon application and payment of the fee.*

Subd. 2. *The department shall have the power, in connection with any application for license as a professional fund raiser, to require the applicant to file a surety bond in such amount, not exceeding \$20,000, and containing such terms and conditions as the department determines are necessary and appropriate for the protection of the public. The applicant may deposit cash in and with a depository acceptable to the department in such amount and in such a manner as may be prescribed and approved by the department in lieu of the bond. The registration statement of the professional fund raiser shall consist of the following:*

(a) If the professional fund raiser at any time has custody of contributions from a solicitation, the registration statement shall include a bond, in which the professional fund raiser shall be the principal obligor. The bond shall be in the sum of \$20,000, with one or more responsible sureties whose liability in the aggregate as such sureties will at least equal that sum. In order to maintain the registration, the bond shall be in effect for the full term of the registration. The bond, which may be in the form of a rider to a larger blanket liability bond, shall run to the state and to any person who may have a cause of action against the principal obligor of the bond for any liabilities resulting from the obligor's conduct of any activities subject to sections 309.50 to 309.61 or arising out of a violation of such statutes or any regulation adopted pursuant thereto.

(b) If the professional fund raiser, or any person the professional fund raiser employs, procures, or engages, solicits in this state, the registration statement shall include a completed "solicitation notice" on a form provided by the attorney general. The solicitation notice shall include a copy of the contract described in paragraph (c) of this subdivision, the projected dates when soliciting will commence and terminate, the location and telephone number from where the solicitation will be conducted, the name and residence address of each person responsible for directing and supervising the conduct of the campaign, a statement as to whether the professional fund raiser will at any time have custody of contributions, and a description of the charitable program for which the solicitation campaign is being carried out. The charitable organization on whose behalf the professional fund raiser is acting shall certify that the solicitation notice and accompanying material are true and complete to the best of its knowledge.

(c) The professional fund raiser shall also include, as part of the registration statement, a copy of the contract between the charitable organization and the professional fund raiser. The contract shall:

(1) be in writing;

(2) contain such information as will enable the attorney general to identify the services the professional fund raiser is to provide, including whether the professional fund raiser will at any time have custody of contributions; and

(3) if the professional fund raiser or any person the professional fund raiser employs, procures, or engages, directly or indirectly, solicits in this state, the contract shall disclose the percentage or a reasonable estimate of the percentage of the total amount solicited from each person which

shall be received by the charitable organization for charitable purposes.

The stated percentages required by this section and section 309.556, subdivision 2, shall exclude any amount which the charitable organization is to pay as expenses of the solicitation campaign, including the cost of merchandise or services sold or events staged.

(d) The registration statement shall also include the financial report for previous campaigns conducted by the professional fund raiser in this state as set forth in subdivision 4 of this section.

Subd. 3. No professional fund raiser shall ~~solicit in~~ use the name of or ~~in solicit on~~ behalf of any charitable organization unless such solicitor has written authorization from two officers of such organization, a copy of which shall be filed with the ~~department~~ attorney general. Such written authorization shall ~~bear the signature of the solicitor and shall expressly state on its face the period for which it is valid, which shall not exceed one year from the date issued~~ conform to the requirements of the contract described in subdivision 2, clause (c), of this section.

Subd. 4. ~~The department may require that any licensed professional fund raiser submit financial reports, not more frequently than quarterly, in such form and containing such information as the department by rule or order requires. Within 90 days after a solicitation campaign has been completed, and on the anniversary of the commencement of a solicitation campaign lasting more than one year, the professional fund raiser who solicited contributions in this state in conjunction with a charitable organization shall file with the attorney general a financial report for the campaign, including gross revenue and an itemization of all expenses incurred. The report shall be completed on a form prescribed by the attorney general. The report shall be signed by an authorized official of the professional fund raiser and an authorized official from the charitable organization and they shall certify, under oath, that it is true to the best of their knowledge.~~

Sec. 30. Minnesota Statutes 1986, section 309.533, is amended by adding a subdivision to read:

Subd. 5. In connection with an investigation under this section, the attorney general may obtain discovery from any person regarding any matter, fact, or circumstance, not privileged, which is relevant to the subject matter involved in the investigation, in accordance with the provisions of section 8.31.

Sec. 31. Minnesota Statutes 1986, section 309.54, is amended to read:
309.54 [PUBLIC RECORD.]

Subdivision 1. Registration statements, annual reports, and other documents required to be filed shall become public records in the office of the ~~department~~ attorney general. *Investigative data obtained by the attorney general in anticipation of or in connection with litigation or an administration proceeding shall be nonpublic data.*

Subd. 2. Every person subject to sections 309.50 to 309.61 shall maintain, *for not less than three years from the date of preparation*, accurate and detailed books and records to provide the information required by sections 309.50 to 309.61. All such books and records shall be open to inspection at all reasonable times by ~~the department or by the attorney general~~.

Subd. 3. Every charitable organization which is required to file an annual report under section 309.53 shall keep and maintain ~~within Minnesota~~, at the place designated in its registration statement, the original books and records, or true copies thereof, pertaining to all money or other property collected from residents of this state and to the disbursement of such money or property. Such books and records shall be preserved for a period of not less than ~~40~~ *three* years from the date of preparation thereof.

Sec. 32. Minnesota Statutes 1986, section 309.55, subdivision 6, is amended to read:

Subd. 6. No person shall, either as an individual or as agent, officer or employee of a charitable organization sell or otherwise furnish for a consideration to any other person any list of contributors *unless the contributor has consented to the transaction.*

Sec. 33. Minnesota Statutes 1986, section 309.556, is amended to read:
309.556 [PUBLIC DISCLOSURE REQUIREMENTS.]

Subdivision 1. [IDENTITY OF ORGANIZATION ~~AND~~; PERCENTAGE OF DEDUCTIBILITY; *DESCRIPTION OF PROGRAM.*] In connection with any charitable solicitation, the following information shall be clearly disclosed:

(a) The name, address and telephone number of each charitable organization on behalf of which the solicitation is made;

(b) The percentage of the contribution which may be deducted as a charitable contribution under both federal and state income tax laws;

(c) *A description of the charitable program for which the solicitation campaign is being carried out; and, if different, a description of the programs and activities of the organization on whose behalf the solicitation campaign is being carried out.*

If the solicitation is made by direct contact, the required information shall be disclosed prominently on a card which shall be exhibited to the person solicited. If the solicitation is made by radio, television, letter, telephone or any other means not involving direct personal contact, the required information shall be clearly disclosed in the solicitation.

Subd. 2. [PERCENTAGE RECEIVED FOR CHARITABLE PURPOSES.] In addition to the disclosures required by subdivision 1, any professional fund raiser soliciting contributions in this state shall also disclose the percentage *or a reasonable estimate of the percentage* of the total amount solicited from each person which shall be received by the charitable agency for charitable purposes. *A professional fund raiser shall also disclose the name of the professional fund raiser as on file with the attorney general and that the solicitation is being conducted by a "professional fund raiser."* The ~~disclosure~~ disclosures required by this subdivision shall be given in the same manner as the disclosures required by subdivision 1.

Sec. 34. Minnesota Statutes 1986, section 309.56, subdivision 1, is amended to read:

Subdivision 1. Any charitable organization or professional fund raiser which solicits contributions in this state, but does not maintain an office within the state shall be subject to service of process, as follows:

(a) By service thereof on its registered agent within the state, or if there

be no such registered agent, then upon the person, *if any*, who has been designated in the registration statement as having custody of books and records within this state; where service is effected upon the person so designated in the registration statement a copy of the process shall, in addition, be mailed to the charitable organization or professional fund raiser at its last known address;

(b) When a charitable organization or professional fund raiser has solicited contributions in this state, but maintains no office within the state, has no registered agent within the state, and no designated person having custody of its books and records within the state, or when a registered agent or person having custody of its books and records within the state cannot be found as shown by the return of the sheriff of the county in which such registered agent or person having custody of books and records has been represented by the charitable organization or professional fund raiser as maintaining an office, service may be made by leaving a copy of the process in the office of the commissioner. Service upon the commissioner is not effective unless (a) the plaintiff, who may be the commissioner in a suit, action, or proceeding instituted by the commissioner, forthwith sends notice of the service and a copy of the process by certified mail to the defendant or respondent at that person's last known address or takes other steps which are reasonably calculated to give actual notice, and (b) the plaintiff's affidavit of compliance with this subdivision is filed in the case on or before the return day of the process, if any, or within a further time the court allows as in any other civil suit, or in the manner provided by section 303.13, subdivision 1, clause (3), or in such manner as the court may direct.

Sec. 35. Minnesota Statutes 1986, section 309.57, is amended to read:

309.57 [DISTRICT COURT JURISDICTION, PENALTIES, ENFORCEMENT.]

Subdivision 1. Upon the application of the attorney general the district court is vested with jurisdiction to restrain and enjoin violations of sections 309.50 to 309.61. The court may make any necessary order or judgment including, but not limited to, injunctions, restitution, appointment of a receiver for the defendant or the defendant's assets, denial, revocation, or suspension of the defendant's registration, awards of reasonable attorney fees, and costs of investigation and litigation, and may award to the state civil penalties up to \$25,000 for each violation of sections 309.50 to 309.61. In ordering injunctive relief, the attorney general shall not be required to establish irreparable harm but only a violation of statute or that the requested order promotes the public interest. The court may, as appropriate, enter a consent judgment or decree without the finding of illegality.

Subd. 2. The attorney general may accept an assurance of discontinuance of any method, act, or practice in violation of sections 309.50 to 309.61 from any person alleged to be engaged or to have been engaged in such method, act, or practice. Such assurance may, among other terms, include a stipulation for the voluntary payment by such person of the costs of investigation, or of an amount to be held in escrow pending the outcome of an action or as restitution to aggrieved persons, or both. Any such assurance of discontinuance shall be in writing and be filed with the district court of the county in which the alleged violator resides or has his principal

place of business or in Ramsey county. An assurance shall not be considered an admission of a violation for any purpose. Failure to comply with the assurance of discontinuance shall be punishable as contempt.

Sec. 36. Minnesota Statutes 1986, section 345.39, is amended to read:

345.39 [MISCELLANEOUS PERSONAL PROPERTY HELD FOR ANOTHER PERSON.]

Subdivision 1. All intangible personal property, not otherwise covered by sections 345.31 to 345.60, including any income or increment thereon, but excluding any charges that may lawfully be withheld, that is held or owing in this state in the ordinary course of the holder's business and has remained unclaimed by the owner for more than five years after it became payable or distributable is presumed abandoned. Property covered by this section includes, but is not limited to: (a) unclaimed wages or worker's compensation; (b) deposits or payments for repair or purchase of goods or services; (c) credit checks or memos, or customer overpayments; (d) unidentified remittances, unrefunded overcharges; (e) unpaid claims, unpaid accounts payable or unpaid commissions; (f) unpaid mineral proceeds, royalties or vendor checks; and (g) credit balances, accounts receivable and miscellaneous outstanding checks. This section does not include money orders.

Subd. 2. [PRESUMED ABANDONMENT.] Notwithstanding subdivision 1, any profit, distribution, or other sum held or owing by a cooperative for or to a participating patron of the cooperative is presumed abandoned only if it has remained unclaimed by the owner for more than seven years after it became payable or distributable.

Sec. 37. Minnesota Statutes 1986, section 386.375, is amended to read:

386.375 [TRANSFER AND STORAGE OF ABSTRACTS.]

Subdivision 1. [DEFINITIONS.] For the purposes of this section, "lender" means all state banks and trust companies, national banking associations, state and federally chartered savings and loan associations, mortgage banks, mutual savings banks, insurance companies, credit unions making a loan, or any person making a conventional loan as defined under section 47.20, subdivision 2, clause (3), or cooperative apartment loan as defined under section 47.20, subdivision 2, clause (4). A "selling lender" is a lender who sells, assigns, or transfers a loan and/or the servicing of a loan to a "purchasing lender" or "servicing agent."

Subd. 2. [RESPONSIBILITY FOR STORAGE.] Any title company, lender, or anyone other than the mortgagor or fee simple owner holding an abstract of title to Minnesota real estate shall transfer the abstract of title to the mortgagor or fee simple owner of the real estate to which the abstract pertains before August 1, 1987. After August 1, 1987, the abstract of title shall be provided to the mortgagor or fee simple owner at the time of closing. This section does not apply if the holder of the abstract of title is the mortgagor or fee simple owner of the real estate to which the abstract pertains.

Subd. 3. [PENALTIES.] If a title company or lender fails to comply with the requirements of subdivision 2, the mortgagor or fee simple owner has the right to have an abstract made at the expense of the lender or title company holding the abstract.

Subdivision 1. [RESPONSIBILITY TO TRANSFER.] (a) A person hold-

ing an abstract of title to real estate located in Minnesota shall, at a closing of a sale of the property to which the abstract pertains, transfer the abstract of title to the mortgagor or fee owner at no charge to the mortgagor or fee owner, unless the abstract of title is being held after a closing for issuance of a final title opinion or policy of title insurance in which case the holder has a reasonable period of time to transfer the abstract. At closing a person may request, without charge, that the abstract be extended by the mortgagor.

(b) A person holding an abstract of title to real estate located in Minnesota shall, within ten days of written request from the mortgagor or fee owner of the property to which the abstract pertains, transfer the abstract of title to the mortgagor or fee owner at no charge to the mortgagor or fee owner. If the abstract of title is being held after a closing for a final title opinion, the holder has a reasonable period of time to transfer the abstract.

(c) If a person holding an abstract of title to real estate located in Minnesota fails to comply with the requirements of this subdivision, the mortgagor or fee owner of the property may have an abstract of title made at the expense of the last known person holding the abstract of title, and is also entitled to collect civil damages of up to \$500 from the person last known to hold the abstract of title.

Subd. 2. [STORAGE OF ABSTRACTS.] A lender, title company, or affiliate thereof may not impose a charge or fee to store an abstract of title to real estate located in Minnesota upon which it has a lien or has issued a lender's title insurance policy. A person violating this subdivision is subject to a penalty of \$100 for each violation.

Subd. 3. [CONSUMER EDUCATION INFORMATION.] (a) A person other than the mortgagor or fee owner who transfers or offers to transfer an abstract of title shall present to the mortgagor or fee owner basic information in plain English about abstracts of title. This information must contain at least the following items:

- (1) a definition and description of abstracts of title;
- (2) an explanation that holders of abstracts of title must maintain it with reasonable care;
- (3) an approximate cost or range of costs to replace a lost or damaged abstract of title; and
- (4) an explanation that abstracts of title may be required to sell, finance, or refinance real estate.

(b) A person violating this subdivision is subject to a penalty of \$100 for each violation.

Subd. 4. [STORAGE IN MINNESOTA.] After August 1, 1987, abstracts of title to real estate located in Minnesota must be stored within the state of Minnesota. Failure to comply with this subdivision entitles a mortgagor or fee owner to civil damages of up to \$500.

Subd. 5. [EXCEPTIONS.] This section does not apply if the person holding the abstract of title is the mortgagor or fee owner of the real estate to which the abstract pertains.

Sec. 38. [APPROPRIATIONS.]

\$65,066 is appropriated from the general fund to the attorney general to be available for fiscal year 1988. The sum of \$34,414 is appropriated from the general fund to the attorney general to be available for fiscal year 1989. The general fund complement of the attorney general is increased by one.

Sec. 39. [INSTRUCTION TO REVISOR.]

The revisor of statutes shall substitute the term "attorney general" for the term "commissioner" or "commissioner of commerce" or "department" in Minnesota Statutes, sections 309.52, subdivisions 1 and 7; 309.53, subdivisions 1 and 2; 309.533, subdivision 1; 309.591; and 309.60.

The revisor of statutes shall delete all references to the "commissioner" in Minnesota Statutes, section 309.581.

Sec. 40. [REPEALER.]

Minnesota Statutes 1986, sections 72A.23; 72A.24; 72A.28; 80A.20; 80A.21; 80C.15; 80C.16, subdivision 1; 82.25; 82.26; 83.34; 83.35, subdivision 3; 238.085; 309.515, subdivision 3; 309.532; 309.533, subdivisions 2, 3, and 4; 309.534; 309.555; and 309.58, are repealed.

Sec. 41. [EFFECTIVE DATE.]

Section 20 is effective June 30, 1987."

Delete the title and insert:

"A bill for an act relating to commerce; providing enforcement powers; regulating securities; regulating the business of financial planning; restricting certain charges made by investment advisors and broker dealers; providing for the registration of securities; providing for disclosure of interest rate commitments; providing for the denial, suspension, and revocation of licenses and the censure of licensees; exempting the sale of certain stock of a closely-held corporation; exempting certain industrial revenue bond transactions; regulating real estate brokers and salespersons; prohibiting commission-splitting and rebating on timeshare and other recreational lands; providing for continuing education of brokers; regulating licensees acting as principals; regulating abandoned property; establishing a presumption of abandonment for certain profits or sums held by a cooperative; regulating the transfer and storage of abstracts of title to real property; transferring the powers and duties of the commissioner for the regulation of social and charitable organizations to the attorney general and providing for further regulation of such organizations; amending Minnesota Statutes 1986, sections 60A.17, subdivision 6c; 80A.06, subdivision 5; 80A.07, subdivision 1; 80A.09, subdivision 1; 80A.12, by adding a subdivision; 80A.14, subdivision 18; 80A.15, subdivisions 1 and 2; 80A.19, subdivision 1; 82.17, subdivision 4; 82.19, subdivision 3; 82.21, subdivision 1; 82.22, subdivision 6; 82.24, subdivision 2; 82.34, subdivision 19; 308.12, by adding a subdivision; 309.50, subdivision 6; 309.515, subdivision 1; 309.52, subdivisions 1a and 2; 309.53, subdivisions 1a, 3, 4, and by adding a subdivision; 309.531; 309.533, by adding a subdivision; 309.54; 309.55, subdivision 6; 309.556; 309.56, subdivision 1; 309.57; 345.39; and 386.375; proposing coding for new law in Minnesota Statutes, chapters 45 and 47; repealing Minnesota Statutes 1986, sections 72A.23; 72A.24; 72A.28; 80A.20; 80A.21; 80C.15; 80C.16, subdivision 1; 82.25; 82.26; 83.34; 83.35, subdivision 3; 238.085; 309.515, subdivision 3; 309.532; 309.533, subdivisions 2, 3, and 4; 309.534; 309.555; and 309.58."

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

Mr. Hughes from the Committee on Elections and Ethics, to which was referred

S.F. No. 1243: A bill for an act relating to elections; specifying the time for precinct caucuses; amending Minnesota Statutes 1986, section 202A.14, subdivision 1.

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

Page 1, line 10, strike "8:00 p.m." and insert "7:30 p.m."

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

Mr. Hughes from the Committee on Elections and Ethics, to which was referred

H.F. No. 281: A bill for an act relating to elections; providing for experimental mail elections; proposing coding for new law in Minnesota Statutes, chapter 204B.

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

Mr. Hughes from the Committee on Elections and Ethics, to which was referred

H.F. No. 334: A bill for an act relating to elections; changing registration, absentee ballot, filing, training, administrative, electronic voting, ballot preparation, canvassing, and election contest provisions; amending Minnesota Statutes 1986, sections 201.071, subdivision 4; 201.091, subdivision 4; 203B.03, subdivision 1; 203B.06, subdivision 3; 204B.11, subdivision 1; 204B.27, subdivision 1; 204B.40; 204C.24, subdivision 1; 204C.27; 204C.31, subdivision 1; 204D.04, subdivision 2; 204D.11, subdivision 6; 206.61, subdivision 5; 206.82, subdivision 2; 206.90, subdivision 3; and 209.021, subdivision 3; proposing coding for new law in Minnesota Statutes, chapter 351.

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

S.F. No. 865: A bill for an act relating to environment; authorizing an assessment against public utilities to finance the state costs of controlling acid deposition; amending Minnesota Statutes 1986, section 116C.69, subdivision 3.

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 116C.69, subdivision 3, is amended to read:

Subd. 3. [FUNDING; ASSESSMENT.] The board shall finance its base line studies, general environmental studies, development of criteria, inventory preparation, monitoring of conditions placed on site certificates and construction permits, and all other work, other than specific site and route designation, from an assessment made quarterly, at least 30 days before the start of each quarter, by the board against all utilities with annual retail kilowatt-hour sales greater than 4,000,000 kilowatt-hours in the previous calendar year.

Until June 30, 1992, the assessment shall also include an amount sufficient to cover 60 percent of the costs to the pollution control agency of ~~developing~~ achieving, maintaining, and monitoring compliance with the acid deposition control plan required by standard adopted under sections 116.42 to 116.45; and costs for additional research on the impacts of acid deposition on sensitive areas published under section 116.44, subdivision 1. This amount shall be certified to the board by the executive director of the pollution control agency. A work plan and budget shall be submitted annually to the legislative commission on Minnesota resources for approval before an assessment is levied. Each share shall be determined as follows: (1) the ratio that the annual retail kilowatt-hour sales in the state of each utility bears to the annual total retail kilowatt-hour sales in the state of all ~~such~~ these utilities, multiplied by 0.667, plus (2) the ratio that the annual gross revenue from retail kilowatt-hour sales in the state of each utility bears to the annual total gross revenues from retail kilowatt-hour sales in the state of all ~~such~~ these utilities, multiplied by 0.333, as determined by the board. The assessment shall be credited to the special revenue fund and shall be paid to the state treasury within 30 days after receipt of the bill, which shall constitute notice of said assessment and demand of payment thereof. The total amount which may be assessed to the several utilities under authority of this subdivision shall not exceed the sum of the annual budget of the board for carrying out the purposes of this subdivision plus 60 percent of the annual budget of the pollution control agency for ~~developing the plan required by~~ achieving, maintaining, and monitoring compliance with the acid deposition control standard adopted under sections 116.42 to 116.45 and for costs for additional research on the impacts of acid deposition on sensitive areas published under section 116.44, subdivision 1. The assessment for the second quarter of each fiscal year shall be adjusted to compensate for the amount by which actual expenditures by the board and the pollution control agency for the preceding fiscal year were more or less than the estimated expenditures previously assessed.

The 60 percent assessment in this subdivision is composed of a 10 percent factor based on the ratio of Minnesota generated deposition to the total deposition in the state and a 50 percent factor allocated for the utilities' support of the work under this subdivision.

Sec. 2. [EFFECTIVE DATE.]

This act is effective the day after final enactment."

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 re-referred

S.F. No. 717: A bill for an act relating to agriculture; relating to environment; providing for pesticide registration and regulation; licensing ap-

plicators; clarifying and recodifying pesticide laws; providing penalties; requiring a report; appropriating money; proposing coding for new law as Minnesota Statutes, chapter 18B; repealing Minnesota Statutes 1986, sections 18A.21; 18A.22; 18A.23; 18A.24; 18A.25; 18A.26; 18A.27; 18A.28; 18A.29; 18A.30; 18A.31; 18A.32; 18A.33; 18A.34; 18A.35; 18A.36; 18A.37; 18A.38; 18A.39; 18A.40; 18A.41; 18A.42; 18A.43; 18A.44; 18A.45; and 18A.48.

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

Delete everything after the enacting clause and insert:

"PESTICIDE REGULATION

Section 1. [18B.01] [DEFINITIONS.]

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

Subd. 2. [APPROVED AGENCY.] "Approved agency" means a state agency, other than the department of agriculture, or an agency of a county, municipality, or other political subdivision that has signed a joint powers agreement under section 471.59 with the commissioner.

Subd. 3. [BENEFICIAL INSECTS.] "Beneficial insects" means insects that are: (1) effective pollinators of plants; (2) parasites or predators of pests; or (3) otherwise beneficial.

Subd. 4. [BULK PESTICIDE.] "Bulk pesticide" means a pesticide that is held in an individual container, with a pesticide content of 56 United States gallons or more, or 100 pounds or greater net dry weight.

Subd. 5. [COMMERCIAL APPLICATOR.] "Commercial applicator" means a person who has a commercial applicator license.

Subd. 6. [COMMISSIONER.] "Commissioner" means the commissioner of agriculture or an agent authorized by the commissioner.

Subd. 7. [DEVICE.] "Device" means an instrument or contrivance, other than a firearm, that is intended or used to destroy, repel, or mitigate a pest, a form of plant or animal life other than humans, or a bacterium, virus, or other microorganism on or in living animals, including humans. A device does not include equipment used for the application of pesticides if the equipment is sold separately from the instrument or contrivance.

Subd. 8. [DISTRIBUTE.] "Distribute" means offer for sale, sell, barter, ship, deliver for shipment, receive and deliver, and offer to deliver pesticides in this state.

Subd. 9. [ENVIRONMENT.] "Environment" means surface water, ground water, air, land, plants, humans, and animals and their interrelationships.

Subd. 10. [FIFRA.] "FIFRA" means the Federal Insecticide, Fungicide, Rodenticide Act, United States Code, title 7, sections 136 to 136y, and regulations under Code of Federal Regulations, title 40, subchapter E, parts 150 to 180.

Subd. 11. [HAZARDOUS WASTE.] "Hazardous waste" means any substance identified or listed as hazardous waste in the rules adopted under section 116.07, subdivision 4.

Subd. 12. [INCIDENT.] "Incident" means a flood, fire, tornado, trans-

portation accident, storage container rupture, portable container rupture, leak, spill, or other event that releases or threatens to release a pesticide accidentally or otherwise, and may cause unreasonable adverse effects on the environment. "Incident" does not include the lawful use or intentional release of a pesticide in accordance with its approved labeling.

Subd. 13. [LABEL.] "Label" means the written, printed, or graphic matter on, or attached to, the pesticide or device or their containers or wrappers.

Subd. 14. [LABELING.] "Labeling" means all labels and other written, printed, or graphic matter:

(1) accompanying the pesticide or device;

(2) referred to by the label or literature accompanying the pesticide or device; or

(3) that relates or refers to the pesticide or to induce the sale of the pesticide or device.

"Labeling" does not include current official publications of the United States Environmental Protection Agency, United States Department of Agriculture, United States Department of Interior, United States Department of Health, Education and Welfare, state agricultural experiment stations, state agricultural colleges, and other similar federal or state institutions or agencies authorized by law to conduct research in the field of pesticides.

Subd. 15. [NONCOMMERCIAL APPLICATOR.] "Noncommercial applicator" means a person with a noncommercial applicator license.

Subd. 16. [PERSON.] "Person" means an individual, firm, corporation, partnership, association, trust, joint stock company, unincorporated organization, the state, a state agency, or political subdivision.

Subd. 17. [PEST.] "Pest" means an insect, rodent, nematode, fungus, weed, terrestrial or aquatic plant, animal life, virus, bacteria, or other organism designated by rule as a pest, except a virus, bacteria, or other microorganism on or in living humans or other living animals.

Subd. 18. [PESTICIDE.] "Pesticide" means a substance or mixture of substances intended to prevent, destroy, repel, or mitigate a pest, and a substance or mixture of substances intended for use as a plant regulator, defoliant, or desiccant.

Subd. 19. [PESTICIDE DEALER.] "Pesticide dealer" means a person with a pesticide dealer license.

Subd. 20. [PLANT REGULATOR.] "Plant regulator" means a substance or mixture of substances intended through physiological action to accelerate or retard the rate of growth or rate of maturation of a plant, or to otherwise alter the behavior of ornamental or crop plants or the produce of the plants. Plant regulator does not include substances to the extent that they are intended as plant nutrients, trace elements, nutritional chemicals, plant inoculants, or soil amendments.

Subd. 21. [PRIVATE APPLICATOR.] "Private applicator" means a person certified to use or supervise use of restricted use pesticides.

Subd. 22. [REGISTRANT.] "Registrant" means a person that has registered a pesticide under this chapter.

Subd. 23. [RESPONSIBLE PARTY.] "Responsible party" means a person who at the time of an incident has custody of, control of, or responsibility for a pesticide, pesticide container, or pesticide rinsate.

Subd. 24. [RESTRICTED USE PESTICIDE.] "Restricted use pesticide" means a pesticide formulation designated as a restricted use pesticide under FIFRA or by the commissioner under this chapter.

Subd. 25. [RINSATE.] "Rinsate" means a dilute mixture of a pesticide or pesticides with water, solvents, oils, commercial rinsing agents, or other substances, that is produced by or results from the cleaning of pesticide application equipment or pesticide containers.

Subd. 26. [SAFEGUARD.] "Safeguard" means a facility, device, or system, or a combination of these, designed to prevent the escape or movement of a pesticide from the place it is stored or kept under conditions that might otherwise result in contamination of the environment.

Subd. 27. [SITE.] "Site" means all land and water areas, including air space, and all plants, animals, structures, buildings, contrivances, and machinery whether fixed or mobile, including anything used for transportation.

Subd. 28. [STRUCTURAL PEST.] "Structural pest" means a pest, other than a plant, in, on, under, or near a structure.

Subd. 29. [STRUCTURAL PEST CONTROL.] "Structural pest control" means the control of any structural pest through the use of a device, a procedure, or application of pesticides in or around a building or other structures, including trucks, boxcars, ships, aircraft, docks, and fumigation vaults, and the business activity related to use of a device, a procedure, or application of a pesticide.

Subd. 30. [STRUCTURAL PEST CONTROL APPLICATOR.] "Structural pest control applicator" means a person with a structural pest control license.

Subd. 31. [UNREASONABLE ADVERSE EFFECTS ON THE ENVIRONMENT.] "Unreasonable adverse effects on the environment" means any unreasonable risk to humans or the environment, taking into account the economic, social, and environmental costs and benefits of the use of any pesticide.

Subd. 32. [WILDLIFE.] "Wildlife" means all living things that are not human, domesticated, or pests.

ADMINISTRATION

Sec. 2. [18B.02] [PREEMPTION OF OTHER LAW.]

Except as specifically provided in this chapter, the provisions of this chapter preempt ordinances by local governments that prohibit or regulate any matter relating to the registration, labeling, distribution, sale, handling, use, application, or disposal of pesticides.

Sec. 3. [18B.03] [POWERS AND DUTIES OF COMMISSIONER.]

Subdivision 1. [ADMINISTRATION BY COMMISSIONER.] The commissioner shall administer, implement, and enforce this chapter and the department of agriculture is the lead state agency for the regulation of pesticides.

Subd. 2. [DELEGATION OF DUTIES.] The functions vested in the commissioner by this chapter may be delegated to designated employees or agents of the department of agriculture.

Subd. 3. [DELEGATION TO APPROVED AGENCIES.] The commissioner may, by written agreements, delegate specific inspection, enforcement, and other regulatory duties of this chapter to officials of approved agencies. Agreements must not result in the displacement of employees of the department who perform similar duties.

Sec. 4. [18B.04] [PESTICIDE IMPACT ON WATER QUALITY.]

The commissioner shall:

(1) determine the impact of pesticides on surface and ground water in this state;

(2) develop best management practices involving pesticide distribution, storage, handling, use, and disposal; and

(3) cooperate with and assist other state agencies and local governments to protect public health and the environment from harmful exposure to pesticides.

Sec. 5. [18B.05] [PESTICIDE REGULATORY ACCOUNT.]

Subdivision 1. [ESTABLISHMENT.] A pesticide regulatory account is established in the state treasury. Fees and penalties except penalties collected under section 22, subdivision 4, collected under this chapter must be deposited in the state treasury and credited to the pesticide regulatory account.

Subd. 2. [ANNUAL APPROPRIATION.] Money in the account, including amount of interest attributable to money in the account and any money appropriated for the purposes of this chapter, is annually appropriated to the commissioner for the administration and enforcement of this chapter.

Sec. 6. [18B.06] [RULES.]

Subdivision 1. [AUTHORITY.] The commissioner shall adopt rules to implement and enforce this chapter including procedures addressing local control of pesticide regulation. Rules adopted under this chapter are part of this chapter and a violation of the rules is a violation of a provision of this chapter.

Subd. 2. [CONFORMITY WITH FIFRA.] Rules adopted under this chapter:

(1) may not allow pesticide use that is prohibited by FIFRA; or

(2) relating to private applicators of restricted use pesticides and special local needs registrations, may not be inconsistent with the requirements of FIFRA.

Subd. 3. [PESTICIDE USE, HANDLING, AND DISPOSAL.] The commissioner shall adopt rules, including emergency rules, to govern the distribution, use, storage, handling, and disposal of pesticides, rinsates, and pesticide containers.

PESTICIDE USE AND REGULATION

Sec. 7. [18B.07] [PESTICIDE USE, APPLICATION, AND EQUIPMENT CLEANING.]

Subdivision 1. [PESTICIDE USE.] Pesticides must be applied in accordance with the product label or labeling and in a manner that will not cause unreasonable adverse effects on the environment within limits prescribed by this chapter and FIFRA.

Subd. 2. [PROHIBITED PESTICIDE USE.] (a) A person may not use, store, handle, or dispose of a pesticide, rinsate, pesticide container, or pesticide application equipment in a manner:

(1) inconsistent with labeling;

(2) that endangers humans, damages agricultural products, food, livestock, fish, wildlife, or beneficial insects; or

(3) that contaminates the environment.

(b) A person may not direct a pesticide on property beyond the boundaries of the target site. A person may not apply a pesticide resulting in damage to adjacent property.

(c) A person may not directly apply a pesticide on a human by overspray or target site spray.

(d) A person may not apply a pesticide in a manner so as to expose a worker in an immediately adjacent, open field.

Subd. 3. [POSTING.] (a) If the pesticide labels prescribe specific hourly or daily intervals for human reentry following application, the person applying the pesticide must post fields, buildings, or areas where the pesticide has been applied. The posting must be done with placards in accordance with label requirements and rules adopted under this section.

(b) Fields being treated with pesticides through irrigation systems must be posted throughout the period of pesticide treatment.

Subd. 4. [CHEMIGATION REQUIREMENTS.] (a) A person may apply pesticides through an irrigation system if the pesticide is suitable and labeled for this method of application and the systems are fitted with effective antisiphon devices or check valves that prevent the backflow of pesticides or pesticide-water mixtures into water supplies or other materials during times of irrigation system failure or equipment shutdown. The devices or valves must be installed between:

(1) the irrigation system pump discharge and the point of pesticide injection; and

(2) the point of pesticide injection and the pesticide supply.

(b) Chemigation under paragraph (a) may be used to apply pesticides on crops and land, including agricultural, nursery, turf, golf course, and greenhouse sites.

Subd. 5. [PESTICIDE SAFEGUARDS AT APPLICATION SITES.] A person may not allow a pesticide, rinsate, or unrinsed pesticide container to be stored, kept, or to remain in or on any site without safeguards adequate to prevent the escape or movement of the pesticides from the site.

Subd. 6. [USE OF PUBLIC WATER SUPPLIES FOR FILLING EQUIPMENT.] A person may not fill pesticide application equipment directly from a public water supply, as defined in section 144.382, unless the outlet from the public water supply is equipped with a backflow prevention device that complies with the Minnesota Plumbing Code under Minnesota Rules,

parts 4715.2000 to 4715.2280.

Subd. 7. [USE OF PUBLIC WATERS FOR FILLING EQUIPMENT.]
(a) A person may not fill pesticide application equipment directly from public waters of the state, as defined in section 105.37, subdivision 14, unless the equipment contains proper and functioning anti-backsiphoning mechanisms. The person may not introduce pesticides into the application equipment until after filling the equipment from the public waters.

(b) This subdivision does not apply to permitted applications of aquatic pesticides to public waters.

Subd. 8. [CLEANING EQUIPMENT IN OR NEAR SURFACE WATER.]
(a) A person may not:

(1) clean pesticide application equipment in surface waters of the state; or

(2) fill or clean pesticide application equipment adjacent to surface waters, ditches, or wells where, because of the slope or other conditions, pesticides or materials contaminated with pesticides could enter or contaminate the surface waters, ground water, or wells, as a result of overflow, leakage, or other causes.

(b) This subdivision does not apply to permitted application of aquatic pesticides to public waters.

Subd. 9. [PESTICIDE, RINSATE, AND CONTAINER DISPOSAL.] A person may only dispose of pesticide, rinsate, and pesticide containers in accordance with this chapter and FIFRA. The manner of disposal must not cause unreasonable adverse effects on the environment.

Sec. 8. [18B.08] [PESTICIDE APPLICATION IN CITIES.]

Subdivision 1. [APPLICABILITY.] This section applies only to statutory and home rule charter cities that enact ordinances as provided in this section.

Subd. 2. [AUTHORITY.] Statutory and home rule charter cities may enact an ordinance containing the pesticide application warning information contained in subdivision 3, including their own licensing, penalty, and enforcement provisions. Statutory and home rule charter cities may not enact an ordinance that contains more restrictive pesticide application warning information than is contained in subdivision 3.

Subd. 3. [WARNING SIGNS FOR PESTICIDE APPLICATION.] (a) All commercial or noncommercial applicators who apply pesticides to turf areas must post or affix warning signs on the property where the pesticides are applied.

(b) Warning signs must project at least 18 inches above the top of the grass line. The warning signs must be of a material that is rain-resistant for at least a 48-hour period and must remain in place up to 48 hours from the time of initial application.

(c) The following information must be printed on the warning sign in contrasting colors and capitalized letters measuring at least one-half inch, or in another format approved by the commissioner. The sign must provide the following information:

(1) the name of the business organization, entity, or person applying the pesticide; and

(2) the following language: "This area chemically treated. Keep children and pets off until ____ (date of safe entry) ____" or a universally accepted symbol and text approved by the commissioner that is recognized as having the same meaning or intent as specified in this paragraph. The warning sign may include the name of the pesticide used.

(d) The warning sign must be posted on a lawn or yard between two feet and five feet from the sidewalk or street. For parks, golf courses, athletic fields, playgrounds, or other similar recreational property, the warning signs must be posted immediately adjacent to areas within the property where pesticides have been applied and at or near the entrances to the property.

Sec. 9. [18B.09] [ACTION TO PREVENT GROUND WATER CONTAMINATION.]

The commissioner may, by rule, special order, or delegation through written regulatory agreement with officials of other approved agencies, take action necessary to prevent the contamination of ground water resulting from leaching of pesticides through the soil, from the backsiphoning or back-flowing of pesticides through water wells, or from the direct flowage of pesticides to ground water.

Sec. 10. [18B.10] [SALE AND USE OF TCDD.]

A person may not sell, offer for sale, or use a pesticide containing in excess of 0.1 parts per million of 2,3,7, 8-tetrachlorodibenzo-para-dioxin (TCDD).

Sec. 11. [SALE AND DISTRIBUTION OF ADULTERATED PESTICIDES.]

A person may not offer for sale or distribute a pesticide that is determined by the commissioner to be adulterated, including a pesticide that has:

(1) a strength or purity that does not meet the standard of quality expressed on its label;

(2) a constituent entirely or partially substituted; or

(3) an important or necessary constituent entirely or partially removed.

Sec. 12. [SALE AND DISTRIBUTION OF MISBRANDED PESTICIDES AND DEVICES.]

A person may not offer for sale or distribute a pesticide or device determined by the commissioner to be misbranded, including a pesticide or device that:

(1) is an imitation of or is offered for sale under the name of another pesticide or device; or

(2) does not comply with the labeling requirements under this chapter or FIFRA.

Sec. 13. [18B.11] [PESTICIDE STORAGE.]

Subdivision 1. [DISPLAY AND STORAGE.] (a) A person may store or display pesticides and their containers only in the original container and separated from food, feed, seed, livestock remedies, drugs, plants, and other products or materials stored, displayed, or offered for sale in a manner that prevents contamination which would cause injury or damage to the other products or materials.

(b) A person may not allow open pesticide containers to be displayed for sale under any circumstances.

Subd. 2. [BULK PESTICIDE STORAGE.] *(a) A person storing pesticides in containers of a rated capacity of 500 gallons or more must obtain a pesticide storage permit from the commissioner.*

(b) Applications must be on forms provided by the commissioner containing information established by rule. The initial application for a permit must be accompanied by a nonrefundable application fee of \$100 for each location where the pesticides are stored.

(c) The commissioner shall by rule develop and implement a program to regulate bulk pesticides. The rules must include installation of secondary containment devices, storage site security, safeguards, notification of storage site locations, criteria for permit approval, a schedule for compliance, and other appropriate requirements necessary to minimize potential adverse effects on the environment. The rules must conform with existing rules of the pollution control agency.

Sec. 14. [18B.12] [PESTICIDE RELEASE INCIDENTS.]

Subdivision 1. [DUTIES OF RESPONSIBLE PARTY.] *(a) A responsible party involved in an incident must immediately report the incident to the department of agriculture and provide information as requested by the commissioner. The responsible party must immediately take all action necessary to minimize or abate the release and to recover pesticides involved in the incident.*

(b) The responsible party must submit a written report of the incident to the commissioner containing the information requested by the commissioner within the time specified by the commissioner.

Subd. 2. [COMMISSIONER'S ACTION.] *(a) If in the judgment of the commissioner the responsible party does not take immediate and sufficient action to abate the release of and to recover the pesticide, the commissioner may take action necessary to mitigate or correct the conditions resulting from an incident. The responsible party must reimburse the commissioner for the costs incurred by the commissioner in the enforcement of this subdivision.*

(b) The department of agriculture is the lead state agency for responding to and taking action with regard to pesticide incidents.

Sec. 15. [18B.13] [EMPLOYER LIABILITY FOR EMPLOYEES.]

Structural pest control applicators, commercial applicators, noncommercial applicants and pesticides dealers are criminally liable for violations of this chapter by their employees and agents.

INSPECTIONS AND ENFORCEMENT

Sec. 16. [18B.15] [COOPERATIVE INSPECTION AND ENFORCEMENT AGREEMENTS.]

The commissioner may enter into cooperative agreements with federal and state agencies for training, certification, inspection, and enforcement programs and may make reports to the United States Environmental Protection Agency and other federal agencies as required or requested. The commissioner may adopt and enforce federal standards, regulations, or orders relating to pesticide regulation when determined to be in the best

interest of citizens of the state.

Sec. 17. [18B.16] [INSPECTION.]

Subdivision 1. [ACCESS AND ENTRY.] *(a) The commissioner, and the commissioner's agents, upon issuance of a notice of inspection, must be granted access at reasonable times to (1) sites where a restricted use pesticide is used; (2) where a person manufactures, formulates, distributes, uses, disposes of, stores, or transports a pesticide in violation of provisions of this chapter; and (3) to all sites affected, or possibly affected, by the use of a pesticide, rinsate, pesticide container, or device in violation of a provision of this chapter.*

(b) The commissioner and commissioner's agents may enter sites for:

(1) inspection of equipment for the manufacture, formulation, distribution, disposal, or application of pesticides and the premises on which the equipment is stored;

(2) sampling of sites actually or reportedly exposed to pesticides;

(3) inspection of storage, handling, distribution, use, or disposal areas of pesticides or pesticide containers;

(4) inspection or investigation of complaints of injury to humans, wildlife, domesticated animals, crops, or the environment;

(5) sampling of pesticides;

(6) observation of the use and application of a pesticide;

(7) inspection of records related to the manufacture, distribution, use, or disposal of pesticides; and

(8) other purposes necessary to implement this chapter.

Subd. 2. [NOTICE OF INSPECTION SAMPLES AND ANALYSES.] *Before leaving the premises inspected, the commissioner shall provide the owner, operator, or agent in charge with a receipt describing any samples obtained. If an analysis is made of the samples, a copy of the results of the analysis must be furnished to the owner, operator, or agent in charge.*

Sec. 18. [18B.17] [PRIVATE REQUEST FOR INSPECTION OF VIOLATION.]

Subdivision 1. [STATEMENT OF VIOLATION.] *A person that suspects a provision of this chapter has been violated may file a written inspection request with the commissioner. The written request must contain:*

(1) the person's name and address;

(2) the name of the person for whom the application was done;

(3) the name of the applicator;

(4) the date of the application;

(5) a description of the suspected violation; and

(6) other information the commissioner may require.

Subd. 2. [INSPECTION FOR SUSPECTED VIOLATION.] *If the request for inspection is filed within 60 days after the pesticide was applied or damage has occurred, the commissioner shall investigate to determine if provisions of this chapter have been violated. The commissioner may dis-*

continue the investigation after determining provisions of this chapter have not been violated.

Subd. 3. [INSPECTION FILE DISCLOSURE.] Copies of completed inspection files are available to the person making the inspection request, the applicator, or their agents, upon written request.

Sec. 19. [18B.18] [ENFORCEMENT.]

Subdivision 1. [ENFORCEMENT REQUIRED.] (a) The commissioner shall enforce this chapter.

(b) Upon the request of the commissioner or an agent authorized by the commissioner, county attorneys, sheriffs, and other officers having authority in the enforcement of the general criminal laws shall take action to the extent of their authority necessary or proper for the enforcement of this chapter, or special orders, standards, stipulations, and agreements of the commissioner.

Subd. 2. [CRIMINAL ACTIONS.] For a criminal action, the county attorney where a violation occurred is responsible for prosecuting a violation of a provision of this chapter. If the county attorney refuses to prosecute, the attorney general may prosecute.

Subd. 3. [CIVIL ACTIONS.] Civil judicial enforcement actions may be brought by the attorney general in the name of the state on behalf of the commissioner. A county attorney may bring a civil judicial enforcement action upon the request of the commissioner and the attorney general.

Subd. 4. [INJUNCTION.] The commissioner may apply to a court with jurisdiction for a temporary or permanent injunction to prevent, restrain, or enjoin violations of provisions of this chapter.

Subd. 5. [AGENT FOR SERVICE OF PROCESS.] All nonresident commercial and structural pest control applicator licensees licensed as individuals must appoint the commissioner as the agent upon whom all legal process may be served and service upon the commissioner is deemed to be service on the licensee.

Subd. 6. [SUBPOENAS.] The commissioner may issue subpoenas to compel the attendance of witnesses or submission of books, documents, and records affecting the authority or privilege granted by a license, registration, certification, or permit issued under this chapter.

Sec. 20. [18B.19] [ADMINISTRATIVE ACTION.]

Subdivision 1. [ADMINISTRATIVE REMEDIES.] The commissioner may seek to remedy violations by a written warning, administrative meeting, cease and desist, stop-use, stop-sale, or other special order, seizure, stipulation, or agreement, if the commissioner determines that the remedy is in the public interest.

Subd. 2. [REVOCATION AND SUSPENSION.] The commissioner may, after written notice and hearing, revoke, suspend, or refuse to renew a registration, permit, license, or certification if a person violates a provision of this chapter.

Subd. 3. [REMEDIAL ACTION ORDERS.] (a) If the commissioner has probable cause that a pesticide, pesticide container, rinsate, pesticide equipment, or device is being used, manufactured, distributed, stored, or disposed of in violation of a provision of this chapter, the commissioner

may investigate and issue a written cease and desist, stop-sale, stop-use, or removal order or other remedial action to the owner, custodian, or other responsible party. If the owner, custodian, or other responsible party is not available for service of the order, the commissioner may attach the order to the pesticide, pesticide container, rinsate, pesticide equipment, or device or facility and notify the owner, custodian, other responsible party, or the registrant. The pesticide, pesticide container, rinsate, pesticide equipment, or device may not be sold, used, or removed until the violation has been corrected and the pesticide, pesticide container, rinsate, pesticide equipment, or device has been released in writing under conditions specified by the commissioner, or until the violation has been otherwise disposed of by a court.

(b) If a violation of a provision of this chapter results in conditions that may have an unreasonable adverse effect on humans, domestic animals, wildlife, or the environment, the commissioner may, by order, require remedial action, including removal and proper disposal.

Sec. 21. [18B.20] [DAMAGES AGAINST STATE FOR ADMINISTRATIVE ACTION WITHOUT CAUSE.]

If the commissioner did not have probable cause for an administrative action, including the issuance of a stop-sale, use, or removal order, a court may allow recovery for damages caused by the administrative action.

Sec. 22. [18B.21] [CIVIL PENALTIES.]

Subdivision 1. [GENERAL PENALTY.] Except as provided in subdivisions 2 and 5, a person who violates a provision of this chapter or a special order, standard, stipulation, agreement, or schedule of compliance of the commissioner is subject to a civil penalty of up to \$10,000 per day of violation as determined by the court.

Subd. 2. [DISPOSAL THAT BECOMES HAZARDOUS WASTE.] A person who violates a provision of this chapter or a special order, standard, stipulation, agreement, or schedule of compliance of the commissioner that relates to disposal of pesticides so that they become hazardous waste, is subject to a civil penalty of up to \$25,000 per day of violation as determined by the court.

Subd. 3. [CLEANUP COSTS.] A person who violates a provision of this chapter is liable for and must pay to the state a sum that will compensate the state for the reasonable value of cleanup and other expenses directly resulting from the illegal use, storage, handling, or disposal of pesticides, whether accidental or otherwise.

Subd. 4. [WILDLIFE AND OTHER DAMAGES.] (a) A person who violates a provision of this chapter is liable for and must pay to the state a sum to constitute just compensation for the loss or destruction of wildlife, fish, or other aquatic life, and for actual damages to the state caused by the illegal use, storage, handling, or disposal of pesticides.

(b) The amounts paid as compensation for loss of or destruction to wildlife, fish, or other aquatic life must be deposited into the state treasury and credited to the game and fish fund.

Subd. 5. [DIRECTLY SPRAYING HUMANS.] A person who directly applies pesticides on a human by target site spraying in an open field is subject to a civil penalty up to \$5,000 as determined by the court.

Subd. 6. [DEFENSE TO CIVIL REMEDIES AND DAMAGES.] As a defense to a civil penalty or claim for damages under subdivisions 1 to 4, the defendant may prove that the violation was caused solely by an act of God, an act of war, or an act or failure to act that constitutes sabotage or vandalism, or any combination of these defenses.

Subd. 7. [ACTIONS TO COMPEL PERFORMANCE.] In an action to compel performance of an order of the commissioner to enforce a provision of this chapter, the court may require a defendant adjudged responsible to perform the acts within the person's power that are reasonably necessary to accomplish the purposes of the order.

Subd. 8. [RECOVERY OF PENALTIES BY CIVIL ACTION.] The civil penalties and payments provided for in this section may be recovered by a civil action brought by the county attorney or the attorney general in the name of the state.

Subd. 9. [RECOVERY OF LITIGATION COSTS AND EXPENSES.] In an action brought by the attorney general or a county attorney in the name of the state under this chapter for civil penalties, injunctive relief, or in an action to compel compliance, if the state finally prevails, the state, in addition to other penalties provided in this chapter, must be allowed an amount determined by the court to be the reasonable value of all or a part of the litigation expenses including attorney fees incurred by the state or county attorney. In determining the amount of these litigation expenses to be allowed, the court shall give consideration to the economic circumstances of the defendant.

Sec. 23. [18B.22] [UNSATISFIED JUDGMENTS.]

(a) An applicant for a commercial, noncommercial, or structural pest control license and a commercial, noncommercial, or structural pest control applicator may not allow a final judgment against the applicant or applicator for damages arising from a violation of a provision of this chapter to remain unsatisfied for a period of more than 30 days.

(b) Failure to satisfy within 30 days a final judgment resulting from these pest control activities will result in automatic suspension of the applicator license.

Sec. 24. [18B.23] [CRIMINAL PENALTIES.]

Subdivision 1. [GENERAL VIOLATION.] Except as provided in subdivisions 2 and 3, a person is guilty of a misdemeanor, if the person violates a provision of this chapter, or a special order, standard, stipulation, agreement, or schedule of compliance of the commissioner.

Subd. 2. [VIOLATION ENDANGERING HUMANS.] A person is guilty of a gross misdemeanor if the person violates a provision of this chapter or a special order, standard, stipulation, agreement, or schedule of compliance of the commissioner, and the violation endangers humans.

Subd. 3. [VIOLATION WITH KNOWLEDGE.] A person is guilty of a gross misdemeanor if the person knowingly violates a provision of this chapter or standard, a special order, stipulation, agreement, or schedule of compliance of the commissioner.

Subd. 4. [DISPOSAL THAT BECOMES HAZARDOUS WASTE.] A person who knowingly, or with reason to know, disposes of a pesticide so that the product becomes hazardous waste is subject to the penalties in

section 115.071.

PESTICIDE REGISTRATION

Sec. 25. [18B.24] [PESTICIDE REGISTRATION.]

Subdivision 1. [REQUIREMENT.] A person may not use or distribute a pesticide in this state unless it is registered with the commissioner. Pesticide registrations expire on December 31 of each year and may be renewed on or before that date for the following calendar year. Registration is not required if a pesticide is shipped from one plant or warehouse to another plant or warehouse operated by the same person and used solely at the plant or warehouse as an ingredient in the formulation of a pesticide that is registered under this chapter.

Subd. 2. [APPLICATION.] (a) A person must file an application for registration with the commissioner. The application must include:

(1) the name and address of the applicant and the name and address of the person whose name will appear on the label, if other than the applicant;

(2) the brand name of the pesticide;

(3) other necessary information required by the registration application form;

(4) a true and complete copy of the labeling accompanying the pesticide as provided for in FIFRA; and

(5) current material safety data sheets for each pesticide.

(b) As part of the application, the commissioner may require the submission of any relevant information including the complete formula of a pesticide, including the active and inert ingredients.

Subd. 3. [APPLICATION FEE.] (a) An application for initial registration and renewal must be accompanied by a nonrefundable application fee of \$100 for each pesticide to be registered.

(b) An additional fee of \$100 must be paid by the applicant for each pesticide to be registered if the application is a renewal application that is submitted after December 31.

(c) An additional fee of \$200 must be paid by the applicant for each pesticide distributed or used in the state before initial state registration.

Subd. 4. [EFFECT OF REGISTRATION AFTER RENEWAL APPLICATION.] If a registration is in effect on December 31 and a renewal application has been made and the application fee paid, the registration continues in full force and effect until the commissioner notifies the applicant that the registration is denied or canceled, or the renewed registration expires.

Subd. 5. [APPLICATION REVIEW AND REGISTRATION.] (a) The commissioner may not deny the registration of a pesticide because the commissioner determines the pesticide is not essential.

(b) The commissioner shall review each application and may approve, deny, or cancel the registration of any pesticide. The commissioner may impose state use restrictions on a pesticide as part of the registration to prevent unreasonable adverse effects on the environment.

(c) The commissioner must notify the applicant of the approval, denial,

cancellation, or state use restrictions within 30 days after the application and fee are received.

(d) *The applicant may request a hearing on any adverse action of the commissioner within 30 days after being notified by the commissioner.*

Sec. 26. [18B.25] [PESTICIDE REGISTRATION FOR SPECIAL LOCAL NEEDS.]

Subdivision 1. [APPLICATION.] (a) *A person must file an application for a special local need application with the commissioner. The application must meet the requirements of section 25, subdivision 2, and the commissioner may require other relevant information.*

(b) *The commissioner may require a full description of tests and test results upon which claims are based for:*

- (1) *a pesticide use that is not registered under section 24 or FIFRA; or*
- (2) *a pesticide on which restrictions are being considered.*

(c) *The applicant may request in writing privacy of information submitted as provided in section 37.*

Subd. 2. [APPLICATION REVIEW.] (a) *After reviewing the application accompanied by the application fee, the commissioner shall, subject to the terms and conditions of the authorization by the administrator of the United States Environmental Protection Agency to register pesticides to meet special local needs, register pesticides if the commissioner determines that:*

(1) *the pesticide's composition warrants the proposed claims for the pesticide;*

(2) *the pesticide's label and other material required to be submitted comply with this chapter;*

(3) *the pesticide will perform its intended function without unreasonable adverse effect on the environment;*

(4) *the pesticide will not generally cause unreasonable adverse effects on the environment when used in accordance with label directions; and*

(5) *a special local need for the pesticide exists.*

(b) *The commissioner may revoke or modify a special local need registration if the commissioner determines that the terms or conditions of the registration do not comply with paragraph (a).*

Subd. 3. [APPLICATION FEE.] *An application fee for a special local need registration must be accompanied by a nonrefundable fee of \$100.*

Sec. 27. [18B.26] [EXPERIMENTAL USE PESTICIDE PRODUCT REGISTRATION.]

Subdivision 1. [REQUIREMENT.] *A person may not use or distribute an experimental use pesticide product in the state until it is registered with the commissioner. Experimental use pesticide product registrations expire on December 31 of each year and may be renewed on or before that date.*

Subd. 2. [APPLICATION REVIEW AND REGISTRATION.] (a) *After reviewing the application accompanied by the application fee, the commissioner may issue an experimental use pesticide product registration if the commissioner determines that the applicant needs the registration to accumulate information necessary to register a pesticide under section 25.*

The commissioner may prescribe terms, conditions, and a limited period of time for the experimental use product registration. After an experimental use pesticide product registration is issued, the commissioner may revoke or modify the registration at any time if the commissioner finds that its terms or conditions are being violated or are inadequate to avoid unreasonable adverse effects on the environment.

(b) The commissioner may deny issuance of an experimental use pesticide product registration permit if the commissioner determines that issuance of a registration is not warranted or that the use to be made of the pesticide under the proposed terms and conditions may cause unreasonable adverse effects on the environment.

Subd. 3. [APPLICATION.] A person must file an application for experimental use pesticide product registration with the commissioner. An application to register an experimental use pesticide product must include:

- (1) the name and address of the applicant;*
- (2) a federal environmental protection agency approval document;*
- (3) the purpose or objectives of the experimental use product;*
- (4) an accepted experimental use pesticide product label;*
- (5) the name, address, and telephone number of cooperators or participants in this state;*
- (6) the amount of material to be shipped or used in this state; and*
- (7) other information requested by the commissioner.*

Subd. 4. [APPLICATION FEE.] (a) An application for registration of an experimental use pesticide product must be accompanied by a nonrefundable application fee of \$100.

(b) An additional fee of \$200 must be paid by the applicant for each pesticide distributed or used in the state before an initial experimental use pesticide product registration was issued for the pesticide.

PESTICIDE LICENSES AND CERTIFICATION

Sec. 28. [18B.27] [RECIPROCAL LICENSING AND CERTIFICATION AGREEMENTS.]

The commissioner may waive all or part of the examination requirements provided for in sections 28 to 34 on a reciprocal basis with any other jurisdiction which has substantially the same requirements. Licenses or certificates issued under sections 28 to 34 may be suspended or revoked upon suspension or revocation of the license or certificate of another jurisdiction supporting the issuance of a Minnesota license or certificate and in the same manner as other licenses and certificates.

Sec. 29. [18B.28] [PESTICIDE USE LICENSE REQUIREMENT.]

A person may not use or supervise the use of a restricted use pesticide without a license or certification required under sections 28 to 34 and the use may only be done under conditions prescribed by the commissioner.

Sec. 30. [18B.29] [PESTICIDE DEALER LICENSE.]

Subdivision 1. [REQUIREMENT.] (a) Except as provided in paragraph (b), a person may not distribute or possess restricted use pesticides or bulk pesticides with an intent to distribute them to an ultimate user without

a pesticide dealer license.

(b) *The pesticide dealer license requirement does not apply to:*

(1) *a licensed commercial applicator, noncommercial applicator, or structural pest control applicator who uses restricted use pesticides only as an integral part of a pesticide application service;*

(2) *a federal, state, county, or municipal agency using restricted use pesticides for its own programs;*

(3) *a licensed pharmacist, physician, dentist, or veterinarian when administering or dispensing a restricted use pesticide for use in the pharmacist's, physician's, dentist's, or veterinarian's practice; or*

(4) *a distributor or wholesaler shipping restricted use pesticides to commercial applicators who are the ultimate users.*

(c) *A licensed pesticide dealer may sell restricted use pesticides only to an applicator licensed or certified by the commissioner, unless a sale is allowed by rule.*

Subd. 2. [RESPONSIBILITY.] A pesticide dealer is responsible for the acts of a person who assists the dealer in the solicitation and sale of restricted use pesticides.

Subd. 3. [LICENSE.] A pesticide dealer license:

(1) *expires on December 31 of each year unless it is suspended or revoked before that date; and*

(2) *is not transferable to another person.*

Subd. 4. [APPLICATION.] (a) A person must apply to the commissioner for a pesticide dealer license on the forms and in the manner required by the commissioner. The commissioner must prescribe and administer a closed-book, monitored examination, or equivalent measure to determine if the applicant is eligible to sell bulk pesticides or restricted use pesticides.

(b) *The commissioner may require an additional demonstration of dealer qualification if the dealer has had a license suspended or revoked, or has otherwise had a history of violations of this chapter.*

Subd. 5. [APPLICATION FEE.] (a) An application for a pesticide dealer license must be accompanied by a nonrefundable application fee of \$50.

(b) *If an application for renewal of a pesticide dealer license is not filed before January 1 of the year for which the license is to be issued, an additional fee of \$20 must be paid by the applicant before the license is issued.*

Sec. 31. [18B.30] [STRUCTURAL PEST CONTROL LICENSE.]

Subdivision 1. [REQUIREMENT.] (a) A person may not engage in structural pest control applications:

(1) *for hire without a structural pest control license; and*

(2) *as a sole proprietorship, company, partnership, or corporation unless the person is or employs a licensed master in structural pest control operations.*

(b) *A structural pest control licensee must have a valid license identification card when applying pesticides for hire and must display it upon*

demand by an authorized representative of the commissioner or a law enforcement officer. The license identification card must contain information required by the commissioner.

Subd. 2. [LICENSES.] (a) A structural pest control license:

(1) expires on December 31 of the year for which the license is issued; and

(2) is not transferable.

(b) The commissioner shall establish categories of master, journeyman, and fumigator for a person to be licensed under a structural pest control license.

Subd. 3. [APPLICATION.] (a) A person must apply to the commissioner for a structural pest control license to be licensed as a master, journeyman, or fumigator on forms and in the manner required by the commissioner. The commissioner shall require the applicant to pass a written, closed-book, monitored examination or oral examination, or both, and may also require a practical demonstration regarding structural pest control. The commissioner shall establish the examination procedure, including the phases and contents of the examination.

(b) The commissioner may license a person as a master under a structural pest control license if the person has the necessary qualifications through knowledge and experience to properly plan, determine, and supervise the selection and application of pesticides in structural pest control. To demonstrate the qualifications and become licensed as a master, a person must:

(1) pass closed-book testing administered by the commissioner; and

(2) by direct experience as a licensed journeyman under a structural pest control license for at least two years by this state or a state with equivalent certification requirements or as a full-time licensed master in another state with equivalent certification requirements, show practical knowledge and field experience in the actual selection and application of pesticides under varying conditions.

(c) The commissioner may license a person as a journeyman under a structural pest control license if the person:

(1) has the necessary qualifications in the practical selection and application of pesticides;

(2) has passed a closed-book examination given by the commissioner; and

(3) is engaged as an employee of or is working under the direction of a person licensed as a master under a structural pest control license.

(d) The commissioner may license a person as a fumigator under a structural pest control license if the person:

(1) has knowledge of the practical selection and application of fumigants;

(2) has passed a closed-book examination given by the commissioner; and

(3) is licensed by the commissioner as a master or journeyman under a structural pest control license.

Subd. 4. [RENEWAL.] (a) A structural pest control applicator license

may be renewed on or before the expiration of an existing license subject to reexamination, attendance at workshops approved by the commissioner, or other requirements imposed by the commissioner to provide the applicator with information regarding changing technology and to help assure a continuing level of competency and ability to use pesticides safely and properly. The commissioner may require an additional demonstration of applicator qualification if the applicator has had a license suspended or revoked or has otherwise had a history of violations of this chapter.

(b) If a person fails to renew a structural pest control license within three months of its expiration, the person must obtain a structural pest control license subject to the requirements, procedures, and fees required for an initial license.

Subd. 5. [FINANCIAL RESPONSIBILITY.] (a) A structural pest control license may not be issued unless the applicant furnishes proof of financial responsibility. The financial responsibility may be demonstrated by:

(1) proof of net assets equal to or greater than \$50,000; or

(2) a performance bond or insurance covering the applicant's pest control activities in an amount determined by the commissioner.

(b) The bond or insurance must cover a period of time at least equal to the term of the applicant's license. The commissioner must immediately suspend the license of a person who fails to maintain the required bond or insurance. The performance bond or insurance policy must contain a provision requiring the insurance or bonding company to notify the commissioner by ten days before the effective date of cancellation, termination, or any other change of the bond or insurance. If there is recovery against the bond or insurance, additional coverage must be secured to maintain financial responsibility equal to the original amount required.

(c) An employee of a licensed person is not required to maintain an insurance policy or bond during the time the employer is maintaining the required insurance or bond.

(d) Applications for reinstatement of a license suspended under the provisions of this section must be accompanied by proof of satisfaction of judgments previously rendered.

Subd. 6. [FEES.] (a) An applicant for a structural pest control license for a business must pay a nonrefundable application fee of \$100. An employee of a licensed business must pay a nonrefundable application fee of \$50 for an individual structural pest control license.

(b) An application received after expiration of the structural pest control license is subject to a penalty fee of 50 percent of the application fee.

(c) An applicant that meets renewal requirements by reexamination instead of attending workshops must pay the equivalent workshop fee for the reexamination as determined by the commissioner.

Sec. 32. [18B.31] [COMMERCIAL APPLICATOR LICENSE.]

Subdivision 1. [REQUIREMENT.] (a) A person may not apply a pesticide for hire without a commercial applicator license for the appropriate use categories except a structural pest control applicator.

(b) A person with a commercial applicator license may not apply pesticides on or into surface waters without an aquatic category endorsement

on a commercial applicator license.

(c) A commercial applicator licensee must have a valid license identification card when applying pesticides for hire and must display it upon demand by an authorized representative of the commissioner or a law enforcement officer. The commissioner shall prescribe the information required on the license identification card.

Subd. 2. [RESPONSIBILITY.] A person required to be licensed under this section who performs pesticide applications for hire or who employs a licensed applicator to perform pesticide application for pro rata compensation is responsible for proper application of the pesticide or device.

Subd. 3. [LICENSE.] A commercial applicator license:

(1) expires on December 31 of the year for which it is issued, unless suspended or revoked before that date; and

(2) is not transferable to another person.

Subd. 4. [APPLICATION.] (a) A person must apply to the commissioner for a commercial applicator license on forms and in the manner required by the commissioner. The commissioner must prescribe and administer a closed-book, monitored examination, or equivalent measure to determine if the applicant is eligible for the commercial applicator license.

(b) Aerial applicators must also fulfill applicable requirements in chapter 360.

(c) An applicant that desires an aquatic category endorsement must pass an examination prepared by the commissioner of natural resources and administered by the department of agriculture.

Subd. 5. [RENEWAL APPLICATION.] (a) A person must apply to the commissioner to renew a commercial applicator license. The commissioner may renew a commercial applicator license accompanied by the application fee, subject to reexamination, attendance at workshops approved by the commissioner, or other requirements imposed by the commissioner to provide the applicator with information regarding changing technology and to help assure a continuing level of competence and ability to use pesticides safely and properly. The applicant may renew a commercial applicator license within 12 months after expiration of the license without having to meet initial testing requirements. The commissioner may require additional demonstration of applicator qualification if a person has had a license suspended or revoked or has had a history of violations of this chapter.

(b) An applicant that meets renewal requirements by reexamination instead of attending workshops must pay the equivalent workshop fee for the reexamination as determined by the commissioner.

Subd. 6. [FINANCIAL RESPONSIBILITY.] (a) A commercial applicator license may not be issued unless the applicant furnishes proof of financial responsibility. The financial responsibility may be demonstrated by: (1) proof of net assets equal to or greater than \$50,000; or (2) by a performance bond or insurance covering the applicant's pest control activities in an amount determined by the commissioner.

(b) The bond or insurance must cover a period of time at least equal to the term of the applicant's license. The commissioner must immediately suspend the license of a person who fails to maintain the required bond or insurance. The performance bond or insurance policy must contain a

provision requiring the insurance or bonding company to notify the commissioner by ten days before the effective date of cancellation, termination, or any other change of the bond or insurance. If there is recovery against the bond or insurance, additional coverage must be secured to maintain financial responsibility equal to the original amount required.

(c) An employee of a licensed person is not required to maintain an insurance policy or bond during the time the employer is maintaining the required insurance or bond.

(d) Applications for reinstatement of a license suspended under the provisions of this section must be accompanied by proof of satisfaction of judgments previously rendered.

Subd. 7. [APPLICATION FEES.] (a) A person initially applying or renewing a commercial applicator license must pay a nonrefundable application fee of \$50, except for a person who is an employee of a business that has a commercial applicator license the nonrefundable application fee is \$25.

(b) If a renewal application is not filed before March 1 of the year for which the license is to be issued, an additional penalty fee of \$10 must be paid before the commercial applicator license may be issued.

Sec. 33. [18B.32] [NONCOMMERCIAL APPLICATOR LICENSE.]

Subdivision 1. [REQUIREMENT.] (a) Except for a commercial applicator, private applicator, or structural pest control applicator, a person, including a government employee, may not use a restricted use pesticide in performance of official duties without having a noncommercial applicator license for an appropriate use category.

(b) A person with a noncommercial applicator license may not apply pesticides into or on surface waters without an aquatic category endorsement on the license.

(c) A licensee must have a valid license identification card when applying pesticides and must display it upon demand by an authorized representative of the commissioner or a law enforcement officer. The license identification card must contain information required by the commissioner.

Subd. 2. [LICENSE.] A noncommercial applicator license:

(1) expires on December 31 of the year for which it is issued unless suspended or revoked before that date; and

(2) is not transferable.

Subd. 3. [APPLICATION.] A person must apply to the commissioner for a noncommercial applicator license on forms and in the manner required by the commissioner. The commissioner must prescribe and administer a closed-book, monitored examination, or equivalent measure to determine if the applicant is eligible to acquire a noncommercial applicator license. An applicant desiring to apply pesticides into or on surface waters must pass an examination prepared by the department of natural resources and administered by the commissioner.

Subd. 4. [RENEWAL.] (a) A person must apply to the commissioner to renew a noncommercial applicator license. The commissioner may renew a license subject to reexamination, attendance at workshops approved by the commissioner, or other requirements imposed by the commissioner to

provide the applicator with information regarding changing technology and to help assure a continuing level of competence and ability to use pesticides safely and properly. The commissioner may require an additional demonstration of applicator qualification if the applicator has had a license suspended or revoked or has otherwise had a history of violations of this chapter.

(b) An applicant that meets renewal requirements by reexamination instead of attending workshops must pay the equivalent workshop fee for the reexamination as determined by the commissioner.

(c) An applicant has 12 months to renew the license after expiration without having to meet initial testing requirements.

Subd. 5. [FEES.] (a) A person initially applying for or renewing a noncommercial applicator license must pay a nonrefundable application fee of \$50, except an applicant who is a government employee who uses pesticides in the course of performing official duties must pay a nonrefundable application fee of \$10.

(b) If an application for renewal of a noncommercial license is not filed before March 1 in the year for which the license is to be issued, an additional penalty fee of \$10 must be paid before the renewal license may be issued.

Sec. 34. [18B.33] [APPLICATION CATEGORIES WITHIN APPLICATOR LICENSES.]

Subdivision 1. [ESTABLISHMENT.] (a) The commissioner may establish categories of structural pest control, commercial applicator, and noncommercial applicator licenses for administering and enforcing this chapter. The categories may include pest control operators and ornamental, agricultural, aquatic, forest, and right-of-way pesticide applicators. Separate subclassifications of categories may be specified as to ground, aerial, or manual methods to apply pesticides or to the use of pesticides to control insects, plant diseases, rodents, or weeds.

(b) Each category is subject to separate testing procedures and requirements.

Subd. 2. [NO ADDITIONAL FEE.] A person may not be required to pay an additional fee for a category or subclassification of a category of a license.

Sec. 35. [18B.34] [PRIVATE APPLICATOR CERTIFICATION.]

Subdivision 1. [REQUIREMENT.] (a) Except for a commercial or noncommercial applicator, only a person certified as a private applicator may use or supervise the use of a restricted use pesticide to produce an agricultural commodity:

(1) as a traditional exchange of services without financial compensation;
or

(2) on a site owned, rented, or managed by the person or the person's employees.

(b) A private applicator may not purchase a restricted use pesticide without presenting a private applicator card or the card number.

Subd. 2. [CERTIFICATION.] (a) The commissioner shall prescribe certification requirements and provide training to certify persons as private

applicators and provide information relating to changing technology to help ensure a continuing level of competency and ability to use pesticides properly and safely. The training may be done through cooperation with other government agencies.

(b) A person must apply to the commissioner for certification as a private applicator. After completing the certification requirements, an applicant must be certified as a private applicator to use restricted use pesticides. The certification is for a period of five years from the applicant's nearest birthday.

(c) The commissioner shall issue a private applicator card to a private applicator.

Subd. 3. [FEES.] (a) A person applying to be certified as a private applicator must pay a nonrefundable \$10 application fee for the certification period.

(b) A \$5 fee must be paid for the issuance of a duplicate private applicator card.

Sec. 36. [18B.35] [RECORDS, REPORTS, PLANS, AND INSPECTIONS.]

Subdivision 1. [PESTICIDE DEALER.] (a) A pesticide dealer must maintain records of all sales of restricted use pesticides as required by the commissioner. Records must be kept on forms supplied by the commissioner or on the pesticide dealer's forms if they are approved by the commissioner.

(b) Records must be submitted annually with the renewal application for a pesticide dealer license or upon request of the commissioner.

(c) Copies of records required under this subdivision must be maintained by the pesticide dealer for a period of five years after the date of the pesticide sale.

Subd. 2. [COMMERCIAL AND NONCOMMERCIAL APPLICATORS.]

(a) A commercial or noncommercial applicator, or the applicator's authorized agent, must maintain a record of pesticides used on each site. The record must include the:

- (1) date of the pesticide use;*
- (2) time the pesticide application was completed;*
- (3) pesticide and dosage used;*
- (4) number of units treated;*
- (5) temperature, wind speed, and wind direction;*
- (6) location of the site where the pesticide was applied;*
- (7) name and address of the customer;*
- (8) name, license number, address, and signature of applicator; and*
- (9) any other information required by the commissioner.*

(b) Portions of records not relevant to a specific type of application may be omitted upon approval from the commissioner.

(c) All information for this record requirement must be contained in a single document for each pesticide application. Invoices containing the required information may constitute the required record.

(d) A commercial applicator must give a copy of the record to the customer when the application is completed.

(e) Records must be retained by the applicator, company, or authorized agent for five years after the date of treatment.

Subd. 3. [STRUCTURAL PEST CONTROL APPLICATORS.] (a) A structural pest control applicator must maintain a record of each structural pest control application conducted by that person or by the person's employees. The record must include the:

(1) date of structural pest control application;

(2) target pest;

(3) name of the pesticide used;

(4) for fumigation, the temperature and exposure time;

(5) name and address of the customer;

(6) structural pest control applicator's company name and address, applicator's signature, and license number; and

(7) any other information required by the commissioner.

(b) Invoices containing the required information may constitute the record.

(c) Records must be retained for five years after the date of treatment.

(d) A copy of the record must be given to a person who ordered the application that is present at the site where the structural pest control application is conducted, placed in a conspicuous location at the site where the structural pest control application is conducted immediately after the application of the pesticides, or delivered to the person who ordered an application or the owner of the site.

Subd. 4. [STORAGE, HANDLING, AND DISPOSAL PLAN.] A commercial, noncommercial, or structural pest control applicator or the licensed business that the applicator is employed by must develop and maintain a plan that describes its pesticide storage, handling, and disposal practices. The plan must be kept at a principal business site or location within this state and must be submitted to the commissioner upon request on forms provided by the commissioner. The plan must be available for inspection by the commissioner.

Subd. 5. [INSPECTION OF RECORDS.] The commissioner may enter a commercial, noncommercial, or structural pest control applicator's business and inspect the records required in this section at any reasonable time and may make copies of the records. Unless required for enforcement of this chapter, the information in the records in this section is private or nonpublic.

Sec. 37. [18B.36] [PROTECTION OF TRADE SECRETS.]

Subdivision 1. [REQUIREMENTS.] In submitting data required by this chapter, the applicant may:

(1) clearly mark any portions that in the applicant's opinion are trade secrets, commercial, or financial information; and

(2) submit the marked material separately from other material.

Subd. 2. [INFORMATION REVEALED.] After consideration of the ap-

plicant's request submitted under subdivision 1, the commissioner shall not make any information public that in the commissioner's judgment contains or relates to trade secrets or to commercial or financial information obtained from an applicant. When necessary, information relating to formulas of products may be revealed to any state or federal agency consulted with similar protection of trade secret authority and may be revealed at a public hearing or in findings of facts issued by the commissioner.

Subd. 3. [NOTIFICATION.] If the commissioner proposes to release information that the applicant or registrant believes to be protected from disclosure under subdivision 2, the commissioner shall notify the applicant or registrant by certified mail. The commissioner shall not make the information available for inspection until 30 days after receipt of the notice by the applicant or registrant. During this period the applicant or registrant may institute an action in an appropriate court for a declaratory judgment as to whether the information is subject to protection under this section.

Sec. 38. [EXISTING RULES.]

Rules of the commissioner of agriculture in effect on the effective date of this act relating to the distribution, use, storage, handling, and disposal of pesticides, rinsates, and pesticide containers remain in effect until they are superseded by new rules. The commissioner may adopt emergency rules to implement this act until December 31, 1987.

Sec. 39. [PESTICIDE CONTAINER DEPOSIT REPORT.]

The commissioner of agriculture in consultation with the director of the pollution control agency shall develop a program for pesticide container deposit and return of triple rinsed pesticide containers. The commissioner shall prepare a report on a proposed program and legislative recommendations and submit the report to the house of representatives and senate committees on agriculture by January 15, 1988.

Sec. 40. [APPROPRIATION.]

Subdivision 1. [PESTICIDE REGULATORY ACCOUNT.] \$_____ is appropriated from the general fund to the pesticide regulatory account. The amount is appropriated from the pesticide regulatory account to the commissioner of agriculture for administration and enforcement of this act.

This amount must be repaid to the general fund from the pesticide regulatory account by June 30, 1989.

The general fund complement for the department is reduced by 15.5 positions and the special revenue complement is increased by 22.5 positions.

Subd. 2. [PESTICIDE IMPACTS ON WATER QUALITY.] \$_____ is appropriated from the general fund to the commissioner of agriculture to determine the pesticide impacts on water quality under section 4.

The complement of the department of agriculture is increased by eight positions.

Sec. 41. [REPEALER.]

Minnesota Statutes 1986, sections 18A.21; 18A.22; 18A.23; 18A.24; 18A.25; 18A.26; 18A.27; 18A.28; 18A.29; 18A.30; 18A.31; 18A.32; 18A.33; 18A.34; 18A.35; 18A.36; 18A.37; 18A.38; 18A.39; 18A.40; 18A.41; 18A.42; 18A.43; 18A.44; 18A.45; and 18A.48 are repealed.

Sec. 42. [EFFECTIVE DATE.]

This act is effective July 1, 1987."

Delete the title and insert:

"A bill for an act relating to agriculture; providing for pesticide registration and regulation; licensing applicators; clarifying and recodifying pesticide laws; providing penalties; requiring a report; appropriating money; proposing coding for new law as Minnesota Statutes, chapter 18B; repealing Minnesota Statutes 1986, sections 18A.21; 18A.22; 18A.23; 18A.24; 18A.25; 18A.26; 18A.27; 18A.28; 18A.29; 18A.30; 18A.31; 18A.32; 18A.33; 18A.34; 18A.35; 18A.36; 18A.37; 18A.38; 18A.39; 18A.40; 18A.41; 18A.42; 18A.43; 18A.44; 18A.45; and 18A.48."

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

Mr. Lessard from the Committee on General Legislation and Public Gaming, to which was referred

S.F. No. 1413: A bill for an act relating to historic sites; establishing a St. Anthony Falls heritage interpretive zone and heritage board; appropriating money; proposing coding for new law in Minnesota Statutes, chapter 138.

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

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

S.F. No. 1099: A bill for an act relating to natural resources; waiving indirect cost billings to the federal government and other states and provinces in certain circumstances; amending Minnesota Statutes 1986, section 16A.127, by adding a subdivision.

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

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

S.F. No. 200: A bill for an act relating to Anoka county; authorizing a certain loan agreement with the commissioner of transportation for the development of new highway No. 10; appropriating money.

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

Page 2, line 18, delete "in 1987"

Page 2, line 24, delete everything after the headnote

Page 2, delete lines 25 to 27

Page 2, line 28, delete "commissioner." and insert "The commissioner shall repay the loan to Anoka county from the trunk highway fund when the commissioner would have spent money from the trunk highway fund for the project if the loan had not been received."

Page 2, delete lines 34 to 36 and insert:

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

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

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

H.F. No. 26: A bill for an act relating to workers' compensation; providing for the organization and powers of the state compensation insurance fund; amending Minnesota Statutes 1986, sections 11A.24, subdivision 4; 176A.02, subdivisions 1 and 2; and 176A.04.

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

Page 3, line 12, delete "shall" and insert "must"

Page 3, line 18, after "and" insert "the"

Page 4, after line 31, insert:

"Sec. 5. [EFFECTIVE DATE.]

This act is effective the day following final enactment."

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

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

S.F. No. 973: A bill for an act relating to peace officers; providing money to train conservation officers employed by the commissioner of natural resources; amending Minnesota Statutes 1986, section 609.101.

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 97A.065, subdivision 2, is amended to read:

Subd. 2. [FINES AND FORFEITED BAIL.] (a) Fines and forfeited bail collected from prosecutions of violations of the game and fish laws, sections 84.09 to 84.15, and 84.81 to 84.88, chapter 34B, and any other law relating to wild animals, and aquatic vegetation must be paid to the treasurer of the county where the violation is prosecuted. The county treasurer shall submit one-half of the receipts to the commissioner and credit the balance to the county general revenue fund except as provided in ~~paragraph~~ paragraphs (b) and (c).

(b) The commissioner must reimburse a county, from the game and fish fund, for the cost of keeping prisoners prosecuted for violations under this section if the county board, by resolution, directs: (1) the county treasurer to submit all fines and forfeited bail to the commissioner; and (2) the county auditor to certify and submit monthly itemized statements to the commissioner.

(c) *The county treasurer shall indicate the amount of the receipts that are assessments or surcharges imposed under section 609.101 and shall submit all of those receipts to the commissioner. The receipts must be credited to the game and fish fund to provide peace officer training for persons employed by the commissioner who are licensed under section 626.84, subdivision 1, clause (c), and who possess peace officer authority for the purpose of enforcing game and fish laws.*

Sec. 2. Minnesota Statutes 1986, section 609.101, is amended to read:
609.101 [SURCHARGE ON FINES, ASSESSMENTS.]

When a court sentences a person convicted of a felony, gross misdemeanor, or misdemeanor, other than a petty misdemeanor such as a traffic or parking violation, and if the sentence does not include payment of a fine, the court shall impose an assessment of not less than \$25 nor more than \$50. If the sentence for the felony, gross misdemeanor, or misdemeanor includes payment of a fine of any amount, including a fine of less than \$100, the court shall impose a surcharge on the fine of ten percent of the fine. This section applies whether or not the person is sentenced to imprisonment and when the sentence is suspended. The court may, upon a showing of indigency or undue hardship upon the convicted person or the person's immediate family, waive payment or authorize payment of the assessment or surcharge in installments unless it makes written findings on the record that the convicted person is indigent or that the assessment or surcharge would create undue hardship for the convicted person or that person's immediate family; however, if the court waives payment or authorizes payment in installments, it shall state in writing on the record the reasons for its action.

Except for violations of the game and fish laws and related laws, which are otherwise provided for in section 97A.065, subdivision 2, the court shall collect and forward to the commissioner of finance the total amount of the assessment or surcharge and the commissioner shall credit all money so forwarded to a crime victim and witness account, which is established as a special account in the state treasury.

Money credited to the crime victim and witness account may be appropriated for but is not limited to the following purposes:

- (1) use for crime victim reparations under sections 611A.51 to 611A.68;
- (2) use by the crime victim and witness advisory council established under section 611A.71; and
- (3) to supplement the federally funded activities of the crime victim ombudsman under section 611A.74.

If the convicted person is sentenced to imprisonment, the chief executive officer of the correctional facility in which the convicted person is incarcerated may collect the assessment or surcharge from any earnings the inmate accrues for work performed in the correctional facility and forward the amount to the commissioner of finance, *indicating the part that was imposed for violations described in section 97A.065, subdivision 2, which must be credited to the game and fish fund.*

Sec. 3. Minnesota Statutes 1986, section 626.861, subdivision 4, is amended to read:

Subd. 4. [PEACE OFFICERS TRAINING ACCOUNT.] Receipts from penalty assessments must be credited to a peace officers training account in the special revenue fund. Money credited to the peace officers training account may be appropriated for but not limited to the following purposes, among others:

- (a) Up to ten percent may be provided for reimbursement to board approved skills courses in proportion to the number of students successfully completing the board's skills licensing examination.

(b) Assessments related to violations described in section 97.49, subdivision 5, are appropriated to provide peace officer training for persons employed by the commissioner of natural resources who are licensed under section 626.84, subdivision 1, clause (c), and who possess peace officer authority for the purpose of enforcing game and fish laws.

(c) The balance may be used to pay each local unit of government an amount in proportion to the number of licensed peace officers and constables employed, at a rate to be determined by the board. The disbursed amount must be used exclusively for reimbursement of the cost of in-service training required under this chapter and chapter 214.

Sec. 4. [EFFECTIVE DATE.]

This act is effective July 1, 1987."

Delete the title and insert:

"A bill for an act relating to peace officer training; providing money to train conservation officers employed by the commissioner of natural resources; amending Minnesota Statutes 1986, sections 97A.065, subdivision 2; 609.101; and 626.861, subdivision 4."

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

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

S.F. No. 449: A bill for an act relating to transportation; railroads; requiring occupied caboose car on certain trains; requiring caboose car to be equipped with shortwave radio; imposing a penalty; amending Minnesota Statutes 1986, section 219.56; proposing coding for new law in Minnesota Statutes, chapter 219.

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

Page 2, delete lines 16 to 18

Page 2, line 19, delete "5" and insert "4"

Page 2, line 23, delete everything after the period

Page 2, delete lines 24 to 26 and insert "*The penalty must be recovered in a civil action by a railway employee, a railway labor organization as defined under the Railway Labor Act, or another interested person in a court having jurisdiction in a county in or through which the railroad line runs. The civil penalty is payable to the state. The court may issue an order requiring compliance with this section. The court shall award the prevailing party in the civil action attorney fees and costs.*"

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

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

S.F. No. 377: A bill for an act relating to state government; regulating the state council for the handicapped; extending the time for appeals by the council from state building code decisions affecting the interests of handicapped persons; changing the name of the council; amending the duties and responsibilities of the council; authorizing the council to initiate

or intervene in proceedings affecting handicapped persons; amending Minnesota Statutes 1986, sections 16B.67; and 256.482.

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

Page 5, lines 10 and 12, delete "which" and insert "that"

Page 5, delete lines 14 to 23 and insert:

"Subd. 6. [COLLECTION OF FEES.] The council may establish and collect fees for documents or technical services provided to the public. The fees must be set at a level to reimburse the council for the actual cost incurred in providing the document or service. The fees must be deposited in the state treasury and credited to a separate account and are appropriated to the council to provide documents and technical services to the public."

Page 5, after line 29, insert:

"Sec. 4. [EFFECTIVE DATE.]

Section 1 is effective the day following final enactment."

Amend the title as follows:

Page 1, line 9, after the semicolon, insert "appropriating money;"

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. 786: A bill for an act relating to human services; limiting reimbursement for certain general assistance medical care providers and medical assistance providers; authorizing publication of a list, and criteria for the list, for selecting health services requiring prior authorization; and authorizing second medical opinion for outpatient surgery; amending Minnesota Statutes 1986, sections 256.969, subdivision 2; 256B.02, subdivision 8; 256B.03, subdivision 1; and 256D.03, subdivision 4.

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

Page 1, line 20, before "On" insert "(a)"

Page 2, lines 1 and 2, delete the new language

Page 2, line 9, after the period, insert *"The state is responsible for the usual state and local share of the adjustment for claims paid on or after August 1, 1985, whether or not the adjustment is approved by the federal Health Care Financing Agency."*

Page 2, after line 31, insert:

"(b) Effective July 1, 1988, the commissioner shall limit the annual increase in pass-through cost payments for depreciation, rents and leases, and interest expenses to the annual growth in the consumer price index for all urban consumers (CPI-U). When computing budgeted pass-through cost payments, the commissioner shall use the annual increase in the CPI-U forecasted by Data Resources, Inc., consistent with the quarter of the hospital's fiscal year end. In final settlement of pass-through cost payments,

the commissioner shall use the CPI-U for the month in which the hospital's fiscal year ends compared to the same month one year earlier."

Page 8, after line 35, insert:

"Sec. 4. Minnesota Statutes 1986, section 256B.04, subdivision 15, is amended to read:

Subd. 15. [UTILIZATION REVIEW.] (1) Establish on a statewide basis a new program to safeguard against unnecessary or inappropriate use of medical assistance services, against excess payments, against unnecessary or inappropriate hospital admissions or lengths of stay, and against underutilization of services in prepaid health plans, long-term care facilities or any health care delivery system subject to fixed rate reimbursement. In implementing the program, the state agency shall utilize both prepayment and postpayment review systems to determine if utilization is reasonable and necessary. The determination of whether services are reasonable and necessary shall be made by the commissioner in consultation with a professional services advisory group appointed by the commissioner. An aggrieved party may appeal the commissioner's determination pursuant to the contested case procedures of chapter 14.

(2) *Contracts entered into for purposes of meeting the requirements of this subdivision shall not be subject to the set-aside provisions of chapter 16B.*

(3) *A recipient aggrieved by the commissioner's termination of services or denial of future services may appeal pursuant to section 256.045. A vendor aggrieved by the commissioner's determination that services provided were not reasonable or necessary may appeal pursuant to the contested case procedures of chapter 14. To appeal, the vendor shall notify the commissioner in writing within 30 days of receiving the commissioner's notice. The appeal request shall specify each disputed item, the reason for the dispute, an estimate of the dollar amount involved for each disputed item, the computation that the vendor believes is correct, the authority in statute or rule upon which the vendor relies for each disputed item, the name and address of the person or firm with whom contacts may be made regarding the appeal, and other information required by the commissioner."*

Page 9, line 11, after the second comma, insert "physical therapy services,"

Page 11, line 8, after the period, insert "On or after July 1, 1988, the commissioner shall phase out the rateable reductions in the general assistance medical care program to the extent possible using any net surplus projected to exist at the end of the biennium within the appropriations for medical assistance and general assistance medical care after any transfers necessary because of deficits in the aid to families with dependent children, general assistance, or Minnesota supplemental aid programs."

Renumber the sections in sequence

Amend the title as follows:

Page 1, line 10, after the semicolon, insert "256B.04, subdivision 15;"

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. 612: A bill for an act relating to health; creating exceptions to the nursing home moratorium; establishing a review process for approval of additional exceptions to the moratorium; prohibiting renewal of licenses for nursing home and boarding care home beds in rooms with more than four beds; appropriating money; amending Minnesota Statutes 1986, sections 144.55, subdivision 6; 144A.05; and 144A.071, subdivision 3; proposing coding for new law in Minnesota Statutes, chapter 144A.

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 144.55, subdivision 6, is amended to read:

Subd. 6. [SUSPENSION, REVOCATION, AND REFUSAL TO RENEW.]

(a) The commissioner may refuse to grant or renew, or may suspend or revoke, a license on any of the following grounds:

(1) Violation of any of the provisions of sections 144.50 to 144.56 or the rules or standards issued pursuant thereto;

(2) Permitting, aiding, or abetting the commission of any illegal act in the institution;

(3) Conduct or practices detrimental to the welfare of the patient; or

(4) Obtaining or attempting to obtain a license by fraud or misrepresentation.

(b) *The commissioner shall not renew a license for a boarding care bed in a resident room with more than four beds.*

Sec. 2. Minnesota Statutes 1986, section 144A.05, is amended to read:

144A.05 [LICENSE RENEWAL.]

Unless the license expires in accordance with section 144A.06 or is suspended or revoked in accordance with section 144A.11, a nursing home license shall remain effective for a period of one year from the date of its issuance. The commissioner of health by rule shall establish forms and procedures for the processing of license renewals. The commissioner of health shall approve a license renewal application if the facility continues to satisfy the requirements, standards and conditions prescribed by sections 144A.01 to 144A.17 and the rules promulgated thereunder. *The commissioner shall not approve the renewal of a license for a nursing home bed in a resident room with more than four beds.* Except as provided in section 144A.08, a facility shall not be required to submit with each application for a license renewal additional copies of the architectural and engineering plans and specifications of the facility. Before approving a license renewal, the commissioner of health shall determine that the facility's most recent balance sheet and its most recent statement of revenues and expenses, as audited by the state auditor, by a certified public accountant licensed by this state or by a public accountant as defined in section 412.222, have been received by the department of human services.

Sec. 3. Minnesota Statutes 1986, section 144A.071, subdivision 3, is amended to read:

Subd. 3. [EXCEPTIONS.] The commissioner of health, in coordination with the commissioner of human services, may approve the addition of a new certified bed or the addition of a new licensed nursing home bed, under the following conditions:

(a) to replace a bed decertified after May 23, 1983 or to address an extreme hardship situation, in a particular county that, together with all contiguous Minnesota counties, has fewer nursing home beds per 1,000 elderly than the number that is ten percent higher than the national average of nursing home beds per 1,000 elderly individuals. For the purposes of this section, the national average of nursing home beds shall be the most recent figure that can be supplied by the federal health care financing administration and the number of elderly in the county or the nation shall be determined by the most recent federal census or the most recent estimate of the state demographer as of July 1, of each year of persons age 65 and older, whichever is the most recent at the time of the request for replacement. In allowing replacement of a decertified bed, the commissioners shall ensure that the number of added or recertified beds does not exceed the total number of decertified beds in the state in that level of care. An extreme hardship situation can only be found after the county documents the existence of unmet medical needs that cannot be addressed by any other alternatives;

(b) to certify a new bed in a facility that commenced construction before May 23, 1983. For the purposes of this section, "commenced construction" means that all of the following conditions were met: the final working drawings and specifications were approved by the commissioner of health; the construction contracts were let; a timely construction schedule was developed, stipulating dates for beginning, achieving various stages, and completing construction; and all zoning and building permits were secured;

(c) to certify beds in a new nursing home that is needed in order to meet the special dietary needs of its residents, if: the nursing home proves to the commissioner's satisfaction that the needs of its residents cannot otherwise be met; elements of the special diet are not available through most food distributors; and proper preparation of the special diet requires incurring various operating expenses, including extra food preparation or serving items, not incurred to a similar extent by most nursing homes;

(d) to license a new nursing home bed in a facility that meets one of the exceptions contained in clauses (a) to (c);

(e) to license nursing home beds in a facility that has submitted either a completed licensure application or a written request for licensure to the commissioner before March 1, 1985, and has either commenced any required construction as defined in clause (b) before May 1, 1985, or has, before May 1, 1985, received from the commissioner approval of plans for phased-in construction and written authorization to begin construction on a phased-in basis. For the purpose of this clause, "construction" means any erection, building, alteration, reconstruction, modernization, or improvement necessary to comply with the nursing home licensure rules; or

(f) to certify or license new beds in a new facility that is to be operated by the commissioner of veterans' affairs or when the costs of constructing and operating the new beds are to be reimbursed by the commissioner of veterans' affairs or the United States Veterans Administration-;

(g) to license or certify beds in a new facility constructed to replace a

facility that was destroyed after June 30, 1987, by fire, lightning, or other hazard provided:

(1) destruction was not caused by the intentional act of or at the direction of a controlling person of the facility;

(2) at the time the facility was destroyed the controlling persons of the facility maintained insurance coverage for the type of hazard that occurred in an amount that a reasonable person would conclude was adequate;

(3) the net proceeds from an insurance settlement for the damages caused by the hazard are applied to the cost of the new facility;

(4) the new facility is constructed on the same site as the destroyed facility or on another site subject to the restrictions in section 4, subdivision 5; and

(5) the number of licensed and certified beds in the new facility does not exceed the number of licensed and certified beds in the destroyed facility;

(h) to license or certify beds that are moved from one location to another within a nursing home facility, provided the total costs of remodeling performed in conjunction with the relocation of beds does not exceed ten percent of the appraised value of the facility or \$200,000, whichever is less, or to license or certify beds in a facility for which the total costs of remodeling or renovation exceed ten percent of the appraised value of the facility or \$200,000, whichever is less, if the facility makes a written commitment to the commissioner of human services that it will not seek to receive an increase in its property-related payment rate by reason of the remodeling or renovation;

(i) to license or certify beds in a facility that has been involuntarily delicensed or decertified for participation in the medical assistance program, provided that an application for relicensure or recertification is submitted to the commissioner within 120 days after delicensure or decertification;

(j) to license or certify beds in a project approved by the interagency board for quality assurance under section 4;

(k) to license or certify nursing home beds in a hospital facility that are relocated from a different hospital facility provided:

(1) the hospital in which the nursing home beds were originally located ceases to function as an acute care facility; or

(2) necessary support services for nursing homes as required for licensure under sections 144A.02 to 144A.10, such as dietary service, physical plant, housekeeping, physical therapy, occupational therapy, and administration, are no longer available from the original hospital site; and

(3) the hospitals share common ownership or affiliation; and

(4) the nursing home beds are not certified for participation in the medical assistance program; or

(1) to license or certify beds that are moved from one location to another within an existing identifiable complex of hospital buildings or from a hospital-attached nursing home to the hospital building if the facility will make a written commitment to the commissioner of human services that it will not seek to receive an increase in its property-related payment rate

as a result of the relocation and will delicense the same number of acute care beds within the existing complex of hospital buildings or building.

Sec. 4. [144A.073] [REVIEW OF PROPOSALS REQUIRING EXCEPTIONS TO THE MORATORIUM.]

Subdivision 1. [DEFINITIONS.] For purposes of this section, the following terms have the meanings given them:

(a) "Conversion" means the relocation of a nursing home bed from a nursing home to an attached hospital.

(b) "Renovation" means extensive remodeling of, or construction of an addition to, a facility on an existing site with a total cost exceeding ten percent of the appraised value of the facility or \$200,000, whichever is less.

(c) "Replacement" means the demolition and reconstruction of all or part of an existing facility.

(d) "Upgrading" means a change in the level of licensure of a bed from a boarding care bed to a nursing home bed, in a certified boarding care facility that is attached to a nursing home or a boarding care bed in a freestanding boarding care facility that currently meets all health department standards for a nursing home.

Subd. 2. [REQUEST FOR PROPOSALS.] By July 1, 1988, and subsequent years, the interagency board shall publish in the State Register a request for proposals for nursing home projects requiring exceptions to the nursing home moratorium. The notice must describe the information that must accompany a request and state that proposals must be submitted to the interagency board by September 30. The notice must include the amount of the legislative appropriation available for the additional costs to the medical assistance program of projects approved under this section. If no money is appropriated for a year, the notice for that year must state that proposals will not be requested because no appropriations were made. To be considered for approval, a proposal must include the following information:

(1) whether the request is for renovation, replacement, upgrading, or conversion;

(2) a description of the problem the project is designed to address;

(3) a description of the proposed project;

(4) an analysis of projected costs, including initial construction and remodeling costs, site preparation costs, financing costs, and estimated operating costs during the first two years after completion of the project;

(5) for proposals involving replacement of all or part of a facility, the proposed location of the replacement facility and an estimate of the cost of addressing the problem through renovation;

(6) for proposals involving renovation, an estimate of the cost of addressing the problem through replacement; and

(7) the proposed timetable for commencing construction and completing the project.

Subd. 3. [REVIEW AND APPROVAL OF PROPOSALS.] Within the limits of money specifically appropriated to the medical assistance program

for this purpose, the interagency board for quality assurance may grant exceptions to the nursing home licensure or certification moratorium for proposals that satisfy the requirements of this section. The interagency board shall appoint an advisory review panel composed of representatives of consumers and providers to review proposals and provide comments and recommendations to the board. The commissioners of human services and health shall provide staff and technical assistance to the board for the review and analysis of proposals. The interagency board shall hold a public hearing before making a final decision on project approvals. The board shall approve or disapprove proposals before December 1 based on a comparison and ranking of proposals using the criteria in subdivision 4. The cost to the medical assistance program of the proposals approved must be within the limits of the appropriations specifically made for this purpose. Approval of a proposal expires seven months after approval unless the facility has commenced construction as defined in section 144A.071, subdivision 3, paragraph (b). The board shall report to the legislature annually by January 1. The report must include the projects approved, the criteria used to select proposals for approval, and the estimated costs of the projects, including the costs of initial construction and remodeling, and the estimated operating costs during the first two years after the project is completed.

Subd. 4. [CRITERIA FOR REVIEW.] (a) The following criteria must be used to compare and rank all proposals submitted:

(1) the extent to which the average occupancy rate of the facility supports the need for the proposed project;

(2) the extent to which the average occupancy rate of all facilities in the county in which the applicant is located, together with all contiguous Minnesota counties, supports the need for the proposed project;

(3) the extent to which the proposal furthers state long-term care goals, including the goal of enhancing the availability and use of alternative care services and the goal of reducing the number of long-term care resident rooms with more than two beds;

(4) the cost effectiveness of the proposal, including the proposal's long-term effects on the costs of the medical assistance program, as determined by the commissioner of human services; and

(5) the feasibility and appropriateness of the proposal, as determined by the commissioner of health.

(b) In addition to the criteria in paragraph (a), the following criteria must be used to evaluate, compare, and rank proposals involving renovation or replacement:

(1) the extent to which the project improves conditions that affect the health or safety of residents, such as narrow corridors, narrow door frames, unenclosed fire exits, and wood frame construction;

(2) the extent to which the project improves conditions that affect the quality of life of residents in a facility or the ability of the facility to provide efficient care, such as a relatively high number of residents in a room; inadequate lighting or ventilation; poor access to bathing or toilet facilities; a lack of available ancillary space for dining rooms, day rooms, or rooms used for other activities; problems relating to heating, cooling, or energy efficiency; inefficient location of nursing stations; or narrow

corridors.

Subd. 5. [REPLACEMENT RESTRICTIONS.] Proposals submitted or approved under this section involving replacement must provide for replacement of the facility on the existing site except as allowed in this subdivision. Facilities located in a metropolitan statistical area may relocate to a site within the same census tract or a contiguous census tract. In the seven-county metropolitan area, the health planning areas as adopted in March 1982 by the metropolitan council shall be used. Facilities located outside a metropolitan statistical area may relocate to a site within the same city or township, or within a contiguous township. A replacement facility must not be relocated to a site more than six miles from the existing site.

Subd. 6. [CONVERSION RESTRICTIONS.] Proposals submitted or approved under this section involving conversion must satisfy the following conditions:

- (a) Conversion is limited to a total of five beds.*
- (b) An equivalent number of hospital beds must be delicensed.*
- (c) The average occupancy rate in the existing nursing home beds must be greater than 96 percent according to the most recent annual statistical report of the department of health.*
- (d) The cost of remodeling the hospital rooms to meet current nursing home construction standards must not exceed ten percent of the appraised value of the nursing home or \$200,000, whichever is less.*
- (e) The conversion must not result in an increase in operating costs.*

Subd. 7. [UPGRADING RESTRICTIONS.] Proposals submitted or approved under this section involving upgrading must satisfy the following conditions:

- (a) No proposal for upgrading may be approved after June 30, 1989.*
- (b) No more than one proposal for upgrading may be approved for a facility.*
- (c) Upgrading is limited to a total of ten beds.*
- (d) The facility must meet minimum nursing home care standards.*
- (e) Upgrading must not result in an increase in per diem operating costs, except for the upgrading of those freestanding boarding care facilities which currently meet existing nursing home building and space standards.*
- (f) If beds are upgraded to nursing home beds, the number of boarding care beds in a facility must not increase in the future.*
- (g) The average occupancy rate in the existing nursing home beds must be greater than 96 percent according to the most recent annual statistical report of the department of health.*
- (h) The cost of remodeling the facility to meet current nursing home construction standards must not exceed ten percent of the appraised value of the facility or \$200,000, whichever is less.*

Subd. 8. [RULEMAKING.] The interagency board shall adopt rules to implement this section.

Sec. 5. Minnesota Statutes 1986, section 144A.27, is amended to read:

144A.27 [ACTING ADMINISTRATORS.]

If a licensed nursing home administrator is removed from the position by death or other unexpected cause, the controlling persons of the nursing home suffering the removal may designate an acting nursing home administrator who ~~may serve without a license for no more than 90 days, unless an extension is granted by the board of examiners shall secure an acting administrator's license within 30 days of appointment as the acting administrator.~~

Sec. 6. Minnesota Statutes 1986, section 256B.431, subdivision 2b, is amended to read:

Subd. 2b. [OPERATING COSTS, AFTER JULY 1, 1985.] (a) For rate years beginning on or after July 1, 1985, the commissioner shall establish procedures for determining per diem reimbursement for operating costs.

(b) The commissioner shall contract with an econometric firm with recognized expertise in and access to national economic change indices that can be applied to the appropriate cost categories when determining the operating cost payment rate.

(c) The commissioner shall analyze and evaluate each nursing home's cost report of allowable operating costs incurred by the nursing home during the reporting year immediately preceding the rate year for which the payment rate becomes effective.

(d) The commissioner shall establish limits on actual allowable historical operating cost per diems based on cost reports of allowable operating costs for the reporting year that begins October 1, 1983, taking into consideration relevant factors including resident needs, geographic location, size of the nursing home, and the costs that must be incurred for the care of residents in an efficiently and economically operated nursing home. In developing the geographic groups for purposes of reimbursement under this section, the commissioner shall ensure that nursing homes in any county contiguous to the Minneapolis-St. Paul seven-county metropolitan area are included in the same geographic group. The limits established by the commissioner shall not be less, in the aggregate, than the 60th percentile of total actual allowable historical operating cost per diems for each group of nursing homes established under subdivision 1 based on cost reports of allowable operating costs in the previous reporting year. The limits established under this paragraph remain in effect until the commissioner establishes a new base period. Until the new base period is established, the commissioner shall adjust the limits annually using the appropriate economic change indices established in paragraph (e). In determining allowable historical operating cost per diems for purposes of setting limits and nursing home payment rates, the commissioner shall divide the allowable historical operating costs by the actual number of resident days, except that where a nursing home is occupied at less than 90 percent of licensed capacity days, the commissioner may establish procedures to adjust the computation of the per diem to an imputed occupancy level at or below 90 percent. The commissioner shall establish efficiency incentives as appropriate. The commissioner may establish efficiency incentives for different operating cost categories. The commissioner shall consider establishing efficiency incentives in care related cost categories. The commissioner may combine one or more operating cost categories and may use different methods for calculating payment rates for each operating cost category or combination of operating cost categories. For the rate year beginning on July 1, 1985, the

commissioner shall:

(1) allow nursing homes that have an average length of stay of 180 days or less in their skilled nursing level of care, 125 percent of the care related limit and 105 percent of the other operating cost limit established by rule; and

(2) exempt nursing homes licensed on July 1, 1983, by the commissioner to provide residential services for the physically handicapped under Minnesota Rules, parts 9570.2000 to 9570.3600, from the care related limits and allow 105 percent of the other operating cost limit established by rule.

For the purpose of calculating the other operating cost efficiency incentive for nursing homes referred to in clause (1) or (2), the commissioner shall use the other operating cost limit established by rule before application of the 105 percent.

(e) The commissioner shall establish a composite index or indices by determining the appropriate economic change indicators to be applied to specific operating cost categories or combination of operating cost categories.

(f) Each nursing home shall receive an operating cost payment rate equal to the sum of the nursing home's operating cost payment rates for each operating cost category. The operating cost payment rate for an operating cost category shall be the lesser of the nursing home's historical operating cost in the category increased by the appropriate index established in paragraph (e) for the operating cost category plus an efficiency incentive established pursuant to paragraph (d) or the limit for the operating cost category increased by the same index. If a nursing home's actual historic operating costs are greater than the prospective payment rate for that rate year, there shall be no retroactive cost settle-up. In establishing payment rates for one or more operating cost categories, the commissioner may establish separate rates for different classes of residents based on their relative care needs.

(g) The commissioner shall include the reported actual real estate tax liability or payments in lieu of real estate tax of each ~~proprietary~~ nursing home as an operating cost of that nursing home. *For rate years beginning on or after July 1, 1987, the reported actual real estate tax liability or payments in lieu of real estate tax of nursing homes shall be adjusted to include an amount equal to one-half of the dollar change in real estate taxes from the prior year.* The commissioner shall include a reported actual special assessment, and reported actual license fees required by the Minnesota department of health, for each nursing home as an operating cost of that nursing home. Total *adjusted* real estate tax liability, *payments in lieu of real estate tax*, actual special assessments paid, and license fees paid as required by the Minnesota department of health, for each nursing home (1) shall be divided by actual resident days in order to compute the operating cost payment rate for this operating cost category, (2) shall not be used to compute the 60th percentile or other operating cost limits established by the commissioner, and (3) shall not be increased by the composite index or indices established pursuant to paragraph (e).

Sec. 7. Minnesota Statutes 1986, section 256B.431, subdivision 2e, is amended to read:

Subd. 2e. ~~[NEGOTIATED RATES CONTRACTS FOR SERVICES FOR VENTILATOR DEPENDENT PERSONS.]~~ *Until procedures for determining operating cost payment rates according to mix of resident needs are*

established, the commissioner may negotiate, with a nursing home that is eligible to receive medical assistance payments, a payment rate of up to 125 percent of the allowed payment rate to be paid for a period of up to three months for individuals who have been hospitalized for more than 100 days, or who have extensive care needs based on nursing hours actually provided or mental or physical disability, or who need respite care for a specified and limited time period. In addition, the commissioner shall take into consideration facilities which historically provided nursing hours at or near the maximum limits which were subsequently reduced as a consequence of payment rate reductions. The payment rate shall be based on an assessment of the nursing home's resident mix as determined by the commissioner of health. When circumstances dictate, the commissioner has authority to renegotiate payment rates for an additional period of time. The payment rate negotiated and The commissioner may contract with a nursing home eligible to receive medical assistance payments to provide services to a ventilator dependent person identified by the commissioner according to criteria developed by the commissioner, including:

(1) nursing home care has been recommended for the person by a preadmission screening team;

(2) the person has been assessed at case mix classification K;

(3) the person has been hospitalized for at least six months and no longer requires inpatient acute care hospital services; and

(4) the commissioner has determined that necessary services for the person cannot be provided under existing nursing home rates.

The commissioner may issue a request for proposals to provide services to a ventilator dependent person to nursing homes eligible to receive medical assistance payments and shall select nursing homes from among respondents according to criteria developed by the commissioner, including:

(1) the cost effectiveness and appropriateness of services;

(2) the nursing home's compliance with federal and state licensing and certification standards; and

(3) the proximity of the nursing home to a ventilator dependent person identified by the commissioner who requires nursing home placement.

The commissioner may negotiate an adjustment to the operating cost payment rate for a nursing home selected by the commissioner from among respondents to the request for proposals. The negotiated adjustment must reflect only the actual additional cost of meeting the specialized care needs of a ventilator dependent person identified by the commissioner for whom necessary services cannot be provided under existing nursing home rates and which are not otherwise covered under Minnesota Rules, parts 9549.0010 to 9549.0080 or 9505.0170 to 9505.0475. The negotiated adjustment shall not affect the payment rate charged to private paying residents under the provisions of section 256B.48, subdivision 1. The negotiated adjustment paid pursuant to this paragraph is specifically exempt from the definition of "rule" and the rulemaking procedures required by chapter 14 and section 256B.502.

Sec. 8. Minnesota Statutes 1986, section 256B.431, subdivision 3a, is amended to read:

Subd. 3a. [PROPERTY-RELATED COSTS AFTER JULY 1, 1985.] (a)

For rate years beginning on or after July 1, 1985, the commissioner, by permanent rule, shall reimburse nursing home providers that are vendors in the medical assistance program for the rental use of real estate and depreciable equipment. "Real estate" means land improvements, buildings, and attached fixtures used directly for resident care. "Depreciable equipment" means the standard moveable resident care equipment and support service equipment generally used in long-term care facilities.

(b) In developing the method for determining payment rates for the rental use of nursing homes, the commissioner shall consider factors designed to:

(1) simplify the administrative procedures for determining payment rates for property-related costs;

(2) minimize discretionary or appealable decisions;

(3) eliminate any incentives to sell nursing homes;

(4) recognize legitimate costs of preserving and replacing property;

(5) recognize the existing costs of outstanding indebtedness allowable under the statutes and rules in effect on May 1, 1983;

(6) address the current value of, if used directly for patient care, land improvements, buildings, attached fixtures, and equipment;

(7) establish an investment per bed limitation;

(8) reward efficient management of capital assets;

(9) provide equitable treatment of facilities;

(10) consider a variable rate; and

(11) phase-in implementation of the rental reimbursement method.

(c) No later than January 1, 1984, the commissioner shall report to the legislature on any further action necessary or desirable in order to implement the purposes and provisions of this subdivision.

(d) For rate years beginning on or after July 1, 1987, a nursing home which has reduced licensed bed capacity after January 1, 1986, shall be allowed to:

(1) aggregate the applicable investment per bed limits based on the number of beds licensed prior to the reduction; and

(2) establish capacity days for each rate year following the licensure reduction based on the number of beds licensed on the previous April 1 if the commissioner is notified of the change by April 4. The notification must include a copy of the delicensure request that has been submitted to the commissioner of health.

(e) Until the rental reimbursement method is fully phased in, a nursing home whose final property related payment rate is the rental rate shall continue to have its property related payment rates established based on the rental reimbursement method.

Sec. 9. Minnesota Statutes 1986, section 256B.431, is amended by adding a subdivision to read:

Subd. 3b. [DEPRECIATION RECAPTURE.] The sale of a nursing home which occurred on or after July 1, 1987, shall result in depreciation recapture payments to be paid by the buyer to the commissioner within 60

days of the department's notification if the sale price exceeds the nursing home's allowable historical cost of capital assets including land recognized by the commissioner at the time of the sale, reduced by accumulated depreciation. The gross recapture amount shall be the lesser of the actual gain on the sale or actual depreciation recognized for the purpose of calculating medical assistance payment rates from the latter of the date of previous sale or November 1, 1972, through the date of the sale. The gross recapture amount shall be allocated to each reporting year from November 1, 1972, through the date of the sale in the same ratio as depreciation amounts recognized for the purpose of calculating medical assistance payment rates. The amount allocated to each reporting year shall be divided by the total actual resident days in that reporting year, thereby determining a cost-per-resident day. The recapture amount shall be the cost-per-resident day for each reporting year times the actual medical assistance resident days for the corresponding rate year following each reporting year. No payment of depreciation recapture shall be assessed with respect to a portion of a rate year beginning after June 30, 1985, in which the property related payment rate was based on the nursing home's rental value. The recapture amount shall be reduced by one percent for each month of continuous ownership since the previous date of sale of the nursing home up to a maximum of 100 months. For the purpose of this subdivision, the sale of a nursing home means the sale or transfer of a nursing home's capital assets or capital stock or the redemption of ownership interests by members of a partnership. In the case of a sale or transfer of a nursing home in which the new operator leases depreciable equipment used in the nursing home business from the prior operator, or an affiliate of the prior operator, the net present value of the lease shall be added to the transaction price for the purpose of determining the actual gain on the sale. In the case of a partial sale of a nursing home, the provisions of this subdivision will be applied proportionately to sales or accumulations of sales that exceed 20 percent of a nursing home's capital assets or capital stock. Depreciation recapture payments resulting from the sale of a nursing home which occurred before July 1, 1985, shall be calculated in accordance with reimbursement regulations in effect on the date of the sale.

Sec. 10. Minnesota Statutes 1986, section 256B.431, is amended by adding a subdivision to read:

Subd. 3c. [PLANT AND MAINTENANCE COSTS.] *For the rate years beginning on or after July 1, 1987, the commissioner shall allow as an expense in the reporting year of occurrence the lesser of the actual allowable plant and maintenance costs for supplies, minor equipment, equipment repairs, building repairs, purchased services and service contracts, except for arms-length service contracts whose primary purpose is supervision, or \$325 per licensed bed.*

Sec. 11. Minnesota Statutes 1986, section 256B.431, subdivision 4, is amended to read:

Subd. 4. [SPECIAL RATES.] (a) *For the rate years beginning July 1, 1983, and July 1, 1984, a newly constructed nursing home or one with a capacity increase of 50 percent or more may, upon written application to the commissioner, receive an interim payment rate for reimbursement for property-related costs calculated pursuant to the statutes and rules in effect on May 1, 1983 and for operating costs negotiated by the commissioner based upon the 60th percentile established for the appropriate group under*

subdivision 2a, to be effective from the first day a medical assistance recipient resides in the home or for the added beds. For newly constructed nursing homes which are not included in the calculation of the 60th percentile for any group, subdivision 2f, the commissioner shall establish by rule procedures for determining interim operating cost payment rates and interim property-related cost payment rates. The interim payment rate shall not be in effect for more than 17 months. The commissioner shall establish, by emergency and permanent rules, procedures for determining the interim rate and for making a retroactive cost settle-up after the first year of operation; the cost settled operating cost per diem shall not exceed 110 percent of the 60th percentile established for the appropriate group. Until procedures determining operating cost payment rates according to mix of resident needs are established, the commissioner shall establish by rule procedures for determining payment rates for nursing homes which provide care under a lesser care level than the level for which the nursing home is certified.

(b) For the rate years beginning on or after July 1, 1985, a newly constructed nursing home or one with a capacity increase of 50 percent or more may, upon written application to the commissioner, receive an interim payment rate for reimbursement for property related costs, operating costs, and real estate taxes and special assessments calculated under rules promulgated by the commissioner.

(c) For rate years beginning on or after July 1, 1983, the commissioner may exclude from a provision of 12 MCAR S 2.050 any facility that is licensed by the commissioner of health only as a boarding care home, certified by the commissioner of health as an intermediate care facility, is licensed by the commissioner of human services under Minnesota Rules, parts 9520.0500 to 9520.0690, and has less than five percent of its licensed boarding care capacity reimbursed by the medical assistance program. Until a permanent rule to establish the payment rates for facilities meeting these criteria is promulgated, the commissioner shall establish the medical assistance payment rate as follows:

(1) The desk audited payment rate in effect on June 30, 1983, remains in effect until the end of the facility's fiscal year. The commissioner shall not allow any amendments to the cost report on which this desk audited payment rate is based.

(2) For each fiscal year beginning between July 1, 1983, and June 30, 1985, the facility's payment rate shall be established by increasing the desk audited operating cost payment rate determined in clause (1) at an annual rate of five percent.

(3) For fiscal years beginning on or after July 1, 1985, the facility's payment rate shall be established by increasing the facility's payment rate in the facility's prior fiscal year by the increase indicated by the consumer price index for Minneapolis and St. Paul.

(4) For the purpose of establishing payment rates under this paragraph, the facility's rate and reporting years coincide with the facility's fiscal year.

A facility that meets the criteria of this paragraph shall submit annual cost reports on forms prescribed by the commissioner.

For the rate year beginning July 1, 1985, each nursing home total payment rate must be effective two calendar months from the first day of the month after the commissioner issues the rate notice to the nursing home. From July 1, 1985, until the total payment rate becomes effective, the commis-

sioner shall make payments to each nursing home at a temporary rate that is the prior rate year's operating cost payment rate increased by 2.6 percent plus the prior rate year's property-related payment rate and the prior rate year's real estate taxes and special assessments payment rate. The commissioner shall retroactively adjust the property-related payment rate and the real estate taxes and special assessments payment rate to July 1, 1985, but must not retroactively adjust the operating cost payment rate.

(d) For the purposes of Minnesota Rules, part 9549.0060, subpart 13, item F, the following types of transactions shall not be considered a sale or reorganization of a provider entity:

- (1) the sale or transfer of a nursing home upon death of an owner;*
- (2) the sale or transfer of a nursing home due to serious illness or disability of an owner as defined under the social security act;*
- (3) the sale or transfer of the nursing home upon retirement of an owner at 62 years of age or older;*
- (4) any transaction in which a partner, owner, or shareholder acquires an interest or share of another partner, owner, or shareholder in a nursing home business provided the acquiring partner, owner, or shareholder has less than 50 percent ownership after the acquisition;*
- (5) a sale and leaseback to the same licensee which does not constitute a change in facility license;*
- (6) a transfer of an interest to a trust;*
- (7) gifts or other transfers for no consideration;*
- (8) a merger of two or more related organizations;*
- (9) a transfer of interest in a facility held in receivership;*
- (10) a change in the legal form of doing business other than a publicly held organization which becomes privately held or vice versa;*
- (11) the addition of a new partner, owner, or shareholder who owns less than 20 percent of the nursing home or the issuance of stock; or*
- (12) an involuntary transfer including foreclosure, bankruptcy, or assignment for the benefit of creditors.*

Any increase in allowable debt or allowable interest expense or other cost incurred as a result of the foregoing transactions shall be a nonallowable cost for purposes of reimbursement under Minnesota Rules, parts 9549.0010 to 9549.0080.

(e) For rate years beginning on or after July 1, 1986, the commissioner may exclude from a provision of 12 MCAR 2.050 any facility that is certified by the commissioner of health as an intermediate care facility, licensed by the commissioner of human services as a chemical dependency treatment program and enrolled in the medical assistance program as an institution for mental disease. The commissioner of human services shall establish a medical assistance payment rate for these facilities. Chapter 14 does not apply to the procedures and criteria used to establish the ratesetting structure. The ratesetting method is not appealable.

Sec. 12. Minnesota Statutes 1986, section 256B.50, subdivision 2, is amended to read:

Subd. 2. [APPRAISED VALUE; APPEALS BOARD.] (a) Appeals concerning the appraised value of a nursing home's real estate must be heard by a three-person appeal board appointed by the commissioner. The real estate as defined in section 256B.431, subdivision 3, must be appraised using the depreciated replacement cost method.

(b) Members of the appeals board shall be appointed by the commissioner from the list of appraisers approved for state contracts by the commissioner of administration. In making the selection, the commissioner of human services shall ensure that each member is experienced in the use of the depreciated replacement cost method and is free of any personal, political, or economic conflict of interest that may impair the member's ability to function in a fair and objective manner.

(c) The appeals board shall appoint one of its members to act as chief representative and shall examine witnesses when it is necessary to make a complete record. Facts to be considered by the board are limited to those in existence at the time of the appraisal being appealed. The board shall issue a written report regarding each appeal to the commissioner within 30 days following the close of the record. The report must contain findings of fact, conclusions, and a recommended disposition based on a majority decision of the board. A copy of the report must be served upon all parties.

(d) The commissioner shall issue an order adopting, rejecting, or modifying the appeal board's recommendation within 30 days of receipt of the report. A copy of the decision must be served upon all parties.

(e) Within 30 days of receipt of the commissioner's order, the appealing party may appeal to the Minnesota court of appeals. The court's decision is limited to a determination of the appraised value of the real estate and must not include costs assessed against either party. (a) An appeal request concerning the appraised value of a nursing home's real estate as established by an appraisal conducted after July 1, 1986, shall state the appraised value the nursing home believes is correct for the building, land improvements, and attached equipment and the name and address of the firm with whom contacts may be made regarding the appeal. The appeal request shall include a separate appraisal report prepared by an independent appraiser of real estate which supports the total appraised value claimed by the nursing home. The appraisal report shall be based on an on-site inspection of the nursing home's real estate using the depreciated replacement cost method, must be in a form comparable to that used in the commissioner's appraisal, and must pertain to the same time period covered by the appealed appraisal. The appraisal report shall include information related to the training, experience, and qualifications of the appraiser who conducted and prepared the appraisal report for the nursing home.

(b) A nursing home which has filed an appeal request prior to the effective date of this law concerning the appraised value of its real estate as established by an appraisal conducted before July 1, 1986, must submit to the commissioner the information described under paragraph (a) within 60 days of the effective date of this act in order to preserve the appeal.

(c) An appeal request which has been filed pursuant to the provisions of paragraph (a) or (b) shall be finally resolved through an agreement entered into by and between the commissioner and the nursing home or by the determination of an independent appraiser based upon an on-site inspection of the nursing home's real estate using the depreciated replace-

ment cost method, in a form comparable to that used in the commissioner's appraisal, and pertaining to the same time period covered by the appealed appraisal. The appraiser shall be selected by the commissioner and the nursing home by alternately striking names from a list of appraisers approved for state contracts by the commissioner of administration. The appraiser shall make assurances to the satisfaction of the commissioner and the nursing home that the appraiser is experienced in the use of the depreciated cost method of appraisals and that the appraiser is free of any personal, political, or economic conflict of interest that may impair the ability to function in a fair and objective manner. The commissioner shall pay costs of the appraiser through a negotiated rate for services of the appraiser.

(d) The decision of the appraiser is final and is not appealable. Exclusive jurisdiction for appeals of the appraised value of nursing homes lies with the procedures set out in this subdivision. No court of law shall possess subject matter jurisdiction to hear appeals of appraised value determinations of nursing homes.

Sec. 13. [STUDY AND REPORT.]

The interagency board for quality assurance shall study the following issues and report to the legislature by December 15, 1988, on its findings and recommendations:

(1) the advisability of changing the definition of "hardship" for purposes of the nursing home moratorium;

(2) the advisability of defining the need for nursing home beds in terms of the population aged 75 and older; and

(3) the existence of a geographic maldistribution of long-term care beds and alternative care services in the state.

Sec. 14. [APPROPRIATIONS AND POSITIONS.]

Subdivision 1. [APPROPRIATIONS.] The following amounts are appropriated from the general fund to the agencies named for the costs associated with the moratorium exception review process and other responsibilities created by sections 1 to 4:

(1) \$_____ to the commissioner of health;

(2) \$_____ to the commissioner of human services; and

(3) \$_____ to the interagency board for quality assurance.

Subd. 2. [POSITIONS.] The approved complement of the department of human services is increased by one-half of a full-time equivalent position. The approved complement of the department of health is increased by one-half of a full-time equivalent position.

Sec. 15. [EFFECTIVE DATES.]

Sections 1 and 2 are effective July 1, 1989. Sections 3 to 14 are effective July 1, 1987."

Delete the title and insert:

"A bill for an act relating to health; creating exceptions to the nursing home moratorium; establishing a review process for approval of additional exceptions to the moratorium; prohibiting renewal of licenses for nursing home and boarding care home beds in rooms with more than four beds;

providing for changes in property-related costs for reduced licensed bed capacity; allowing for depreciation recapture; providing for a new appeals procedure for appraised value appeal requests; appropriating money; amending Minnesota Statutes 1986, sections 144.55, subdivision 6; 144A.05; 144A.071, subdivision 3; 144A.27; 256B.431, subdivisions 2b, 2e, 3a, 4, and by adding subdivisions; and 256B.50, subdivision 2; proposing coding for new law in Minnesota Statutes, chapter 144A."

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

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

S.F. No. 506: A bill for an act relating to housing; providing for administration of the state's low-income housing credit; authorizing the Minnesota housing finance agency to participate in certain housing construction projects and in certain nonprofit corporations; authorizing the sale or rental of certain housing property; providing definitions; providing for the issuance of certain bonds and notes; amending Minnesota Statutes 1986, sections 462A.05, subdivisions 14, 21, and by adding subdivisions; 462A.06, subdivisions 7 and 12; 462A.08, subdivisions 1 and 3; and 462A.18, subdivision 2; proposing coding for new law in Minnesota Statutes, chapter 462A.

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

Page 1, after line 15, insert:

"Section 1. Minnesota Statutes 1986, section 462A.03, subdivision 14, is amended to read:

Subd. 14. "Federal housing assistance supplements" means all funds or certificates of tax credit or exemption, including mortgage credit certificates, or *low-income housing credits*, made available to the state of Minnesota by the federal government or any agency or instrumentality thereof for the purpose of assisting in providing adequate and economic housing in the state of Minnesota."

Page 3, line 11, delete "5" and insert "6" and delete "*build*,"

Page 3, line 18, delete "*built*,"

Page 3, line 31, delete "5" and insert "6"

Page 4, line 20, after the first "*housing*" insert ", *previously financed by the agency, which is*"

Page 4, line 24, delete "*or*" and insert a comma and after "*foreclosure*" insert ", *or otherwise*"

Page 4, after line 24, insert:

"*Multifamily property acquired as provided in clause (2) must be managed on a fee basis by an entity other than the agency or corporation. The agency or corporation may manage the property on a temporary basis until an agreement is entered into with another entity to manage the property. The agency or corporation shall make the property available for sale at a purchase price and on terms that are mutually agreeable to the parties.*"

Page 4, line 27, delete "5" and insert "6"

Page 7, line 8, delete "11 to 14" and insert "12 to 15"

Page 7, line 23, after "authority" insert "*and cities located in three or more counties that have a housing and redevelopment authority*"

Page 7, lines 28 and 29, delete "11 to 14" and insert "12 to 15"

Page 8, line 3, delete "twice" and delete "\$1.125" and insert "\$1.6875"

Page 8, line 20, delete "13" and insert "14"

Page 8, line 34, delete "12" and insert "13"

Page 9, line 5, delete "12" and insert "13"

Page 9, line 15, after the period, insert "*Publications under this section are not subject to chapter 14.*"

Page 9, line 17, delete "14" and insert "15"

Renumber the sections in sequence

Amend the title as follows:

Page 1, line 9, after "sections" insert "462A.03, subdivision 14;"

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

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

S.F. No. 1331: A bill for an act relating to taxation; providing for refund to manufacturers of excises taxes on automobiles when refund is paid to the consumer; amending Minnesota Statutes 1986, section 297B.031.

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

Page 2, after line 5, insert:

"Sec. 2. Minnesota Statutes 1986, section 325F665, subdivision 3, is amended to read:

Subd. 3. [MANUFACTURER'S DUTY TO REFUND OR REPLACE.]

(a) If the manufacturer, its agents, or its authorized dealers are unable to conform the new motor vehicle to any applicable express warranty by repairing or correcting any defect or condition which substantially impairs the use or market value of the motor vehicle to the consumer after a reasonable number of attempts, the manufacturer shall, at the consumer's option, either replace the new motor vehicle with a comparable motor vehicle or accept return of the vehicle from the consumer and refund to the consumer the full purchase price, or the total amount actually paid by the consumer under any vehicle lease, including the cost of any options or other modifications arranged, installed, or made by the manufacturer, its agent, or its authorized dealer within 30 days after the date of original delivery, and all other charges including, but not limited to, sales tax, license fees and registration fees, reimbursement for towing and rental vehicle expenses incurred by the consumer as a result of the vehicle being out of service for warranty repair, less a reasonable allowance for the consumer's use of the vehicle not exceeding ten cents per mile driven or ten percent

of the purchase price or full lease cost of the vehicle, whichever is less. Refunds must be made to the consumer, and lienholder, if any, as their interests appear on the records of the registrar of motor vehicles. Refunds shall include the amount stated by the dealer as the trade-in value of a consumer's used motor vehicle, plus any additional amount paid by the consumer for the new motor vehicle. For a lease vehicle, refunds shall include the total amount actually paid by the consumer under any vehicle lease, less any finance charges paid by the consumer. A reasonable allowance for use is that amount directly attributable to use by the consumer and any previous consumer prior to the first report of the nonconformity to the manufacturer, agent, or dealer. It is an affirmative defense to any claim under this section (1) that an alleged nonconformity does not substantially impair the use or market value, or (2) that a nonconformity is the result of abuse, neglect, or unauthorized modifications or alterations of a motor vehicle by anyone other than the manufacturer, its agent or its authorized dealer.

(b) It is presumed that a reasonable number of attempts have been undertaken to conform a new motor vehicle to the applicable express warranties, if (1) the same nonconformity has been subject to repair four or more times by the manufacturer, its agents, or its authorized dealers within the express warranty term or during the period of one year following the date of original delivery of the motor vehicle to a consumer, whichever is the earlier date, but the nonconformity continues to exist, or (2) the vehicle is out of service by reason of repair for a cumulative total of 30 or more business days during the term or during the period, whichever is the earlier date.

(c) If the nonconformity results in a complete failure of the braking or steering system of the new motor vehicle and is likely to cause death or serious bodily injury if the vehicle is driven, it is presumed that a reasonable number of attempts have been undertaken to conform the vehicle to the applicable express warranties if the nonconformity has been subject to repair at least once by the manufacturer, its agents, or its authorized dealers within the express warranty term or during the period of one year following the date of original delivery of the motor vehicle to a consumer, whichever is the earlier date, and the nonconformity continues to exist.

(d) The term of an express warranty, the one-year period and the 30-day period shall be extended by any period of time during which repair services are not available to the consumer because of a war, invasion, strike, or fire, flood, or other natural disaster.

(e) The presumption contained in paragraph (b) applies against a manufacturer only if the manufacturer, its agent, or its authorized dealer has received prior written notification from or on behalf of the consumer at least once and an opportunity to cure the defect alleged. If the notification is received by the manufacturer's agent or authorized dealer, the agent or dealer must forward it to the manufacturer by certified mail, return receipt requested.

(f) A consumer is eligible to receive a refund or replacement vehicle under this section if the nonconformity is reported to the manufacturer, its authorized agent or dealer, at any time during the motor vehicle's express warranty period, even if the motor vehicle's express warranty expires before the requirements of paragraphs (a), (b), and (c) have been met.

(g) At the time of purchase the manufacturer must provide directly to

the consumer a written statement on a separate piece of paper, in 10-point all capital type, in substantially the following form: "IMPORTANT: IF THIS VEHICLE IS DEFECTIVE, YOU MAY BE ENTITLED UNDER STATE LAW TO REPLACEMENT OF IT OR A REFUND OF ITS PURCHASE PRICE. HOWEVER, TO BE ENTITLED TO REFUND OR REPLACEMENT, YOU MUST FIRST NOTIFY THE MANUFACTURER, ITS AGENT, OR ITS AUTHORIZED DEALER OF THE PROBLEM IN WRITING AND GIVE THEM AN OPPORTUNITY TO REPAIR THE VEHICLE."

(h) The amount of the sales tax to be paid by the manufacturer to the consumer under paragraph (a) shall be the tax paid by the consumer when the vehicle was purchased less an amount equal to the tax paid multiplied by a fraction, the denominator of which is the purchase price of the vehicle and the numerator of which is the allowance deducted from the refund for the consumer's use of the vehicle."

Amend the title as follows:

Page 1, line 3, delete "excises" and insert "excise"

Page 1, line 5, delete "section" and insert "sections" and after "297B.031" insert "and 325F665, subdivision 3"

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

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

H.F. No. 1213: A bill for an act relating to retirement; teachers retirement association; making various changes in the law governing the association for the purpose of facilitating administration of retirement benefits and contributions; amending Minnesota Statutes 1986, sections 354.05, subdivision 35, and by adding a subdivision; 354.06, subdivision 1; 354.07, subdivision 3; 354.094, subdivision 1; 354.44, subdivision 5; 354.46, subdivision 5; 354.48, subdivision 7; 354.51, subdivision 5; 354.55, subdivision 11; 354.62, subdivision 5, and by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapter 13; repealing Minnesota Statutes 1986, section 354.44, subdivision 1a.

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

Delete everything after the enacting clause and insert:

"ARTICLE 1

PUBLIC PENSION PLAN DATA PRIVACY

Section 1. Minnesota Statutes 1986, section 13.43, is amended by adding a subdivision to read:

Subd. 2a. [DATA DISCLOSURE BY STATEWIDE PENSION PLANS.] Notwithstanding any law to the contrary, with respect to data collected and maintained on members, survivors and beneficiaries by statewide retirement systems that is classified as public data in accordance with subdivision 2, those retirement systems may be only required to disclose name, gross pension, and type of benefit awarded, except as required by sections 13.03, subdivisions 4 and 6; and 13.05, subdivisions 4 and 9.

Sec. 2. [13.641] [PUBLIC EMPLOYEES RETIREMENT ASSOCIA-

TION DATA.]

The following data on beneficiaries and survivors of public employees retirement association members is considered private data on individuals:

- (1) address;
- (2) birth date;
- (3) direct deposit account number; and
- (4) tax withholding data.

Sec. 3. [13.642] [TEACHERS RETIREMENT ASSOCIATION DATA.]

The following data on beneficiaries and survivors of teachers retirement association members is considered private data on individuals:

- (1) address;
- (2) birth date;
- (3) direct deposit account number; and
- (4) tax withholding data.

Sec. 4. [EFFECTIVE DATE.]

This article is effective the day following final enactment.

ARTICLE 2

MANDATORY RETIREMENT AGE FEDERAL LAW CONFORMANCE

Section 1. Minnesota Statutes 1986, section 43A.34, subdivision 1, is amended to read:

Subdivision 1. [MANDATORY RETIREMENT AGE.] Employees in the executive branch who are subject to the provisions of the Minnesota state retirement system or the teacher's retirement association and who are serving as faculty members or administrators under a contract of unlimited terms or similar arrangement providing for unlimited tenure at an institution of higher education, as defined by United States Code, title 20, section 1141(a), as amended through December 31, 1986, must retire from employment by the state upon reaching the age of 70, except as provided in other law. Other employees in the executive branch who are subject to the provisions of the Minnesota state retirement system or the teacher's retirement association, except as provided in subdivision 3 or 4, or as provided in section 354.44, subdivision 1a, are not subject to a mandatory retirement age provision.

Sec. 2. Minnesota Statutes 1986, section 43A.34, subdivision 4, is amended to read:

Subd. 4. [STATE PATROL, CONSERVATION AND CRIME BUREAU OFFICERS EXEMPTED.] Notwithstanding any provision to the contrary, (a) conservation officers and crime bureau officers who were first employed on or after July 1, 1973 and who are members of the state patrol retirement fund by reason of their employment, and members of the Minnesota state patrol division of the department of public safety who are members of the state patrol retirement association by reason of their employment, shall not continue employment after attaining the age of 60 years, except for a fractional portion of one year that will enable the employee to complete the employee's next full year of allowable service as defined pursuant to

section 352B.01, subdivision 3; and (b) conservation officers and crime bureau officers who were first employed and are members of the state patrol retirement fund by reason of their employment before July 1, 1973, shall not continue employment after attaining the age specified in subdivision 4 of 70 years.

Sec. 3. Minnesota Statutes 1986, section 181.81, subdivision 1, is amended to read:

Subdivision 1. [RESTRICTION ON MANDATORY RETIREMENT AGE.]

(a) It is unlawful for any *private sector* employer, ~~public or private, excluding the United States government and any of its instrumentalities,~~ to refuse to hire or employ, or to discharge, dismiss, reduce in grade or position, or demote any individual on the grounds that the individual has reached an age of less than 70, except in cases where federal statutes or rules or other state statutes, not including special laws compel or specifically authorize such action. Nothing in this section shall prohibit compulsory retirement of employees who have attained 70 years of age or more; provided further that nothing in this section shall prohibit compulsory retirement of an employee who has attained at least 65 years of age and who for the two year period immediately before retirement is employed in an executive or a high policy making position if that employee is entitled to an immediate nonforfeitable annual retirement benefit from a pension, profit sharing, savings or deferred compensation plan of an employer, or any combination of these benefits which totals in the aggregate at least \$27,000. If the retirement benefit is in a form other than a straight life annuity, the equivalent annualized payment value of the benefit shall be actuarially determined according to rules promulgated by the commissioner of labor and industry. Pilots and flight crew members shall not be subject to the provisions of this section or section 363.02, subdivision 6, but shall be retired from this employment pursuant to standards contained in regulations promulgated by the federal aviation administration for airline pilots and flight officers and are subject to the bona fide occupational requirements for these employees as promulgated by the federal aviation administration.

(b) Prior to June 1, 1982 every employer shall notify an employee in writing at least 90 days but no more than 120 days prior to the employee's 65th birthday of the option to continue employment beyond that date. The notice shall state in a conspicuous manner that the employee shall respond to the notice within 30 days of the employee's desire to continue employment beyond the employee's 65th birthday. Every employer shall post in a conspicuous place a notice written or approved by the commissioner of labor and industry stating that the mandatory retirement age is age 70. Employment shall continue for as long as the employee desires or until the employer demonstrates that the employee no longer can meet the bona fide requirements, consistently applied, for the job or position or until the employee reaches the compulsory retirement age established by the employer. When an employer intends to terminate an employee who is 65 years of age or older earlier than age 70 on the ground that the employee no longer can meet the bona fide requirements for the job or position the employer shall give the employee 30 days notice of that intention.

(c) If there exists a date on which the accrual of pension benefits or credits, or the contributions therefor by the employee or the employer, or the employee's employment related health and welfare benefits or insurance coverages are diminished or eliminated by virtue of the employee attaining

a certain age, the employer shall notify the employee of the changes at least 90 but not more than 120 days prior to the effective date of the change. This section, in and of itself, shall not be construed to require any change in the employer contribution levels of any pension or retirement plan, or to require any employer to increase an employer's or employee's payments for the provision of insurance benefits contained in any employee benefit or insurance plan.

Sec. 4. Minnesota Statutes 1986, section 181.811, is amended to read:
181.811 [MANDATORY RETIREMENT AGE.]

Laws 1978, chapter 649 is effective April 24, 1979, subject to the following exceptions:

(1) In the case of employees covered by a collective bargaining agreement which was entered into between a labor organization and an employer and which was in effect on September 1, 1977, it shall take effect upon the termination of the agreement or on January 1, 1980, whichever comes first.

(2) Nothing contained in Laws 1978, chapter 649 or Laws 1979, chapter 40 shall be construed as requiring the rehiring, reinstatement or payment of additional benefits to an employee who terminates service prior to April 24, 1979, with an employer who employs 20 or more employees, or the rehiring, reinstatement or payment of additional benefits to an employee who terminates service prior to June 1, 1980, with an employer who employs less than 20 employees, pursuant to a mandatory retirement law or policy which mandates retirement prior to attaining 70 years of age, or any other employee who terminates service prior to the termination of a collectively bargained contract containing a mandatory retirement provision.

(3) Laws 1978, chapter 649, section 3, is effective January 1, 1979. ~~Any person who was previously a member of and has received a refund of accumulated employee or member contributions from one or more of the covered retirement funds enumerated in section 356.32, subdivision 2 and who terminated service at age 65 or older for any reason whether or not the person was required to terminate service pursuant to a mandatory retirement statute or a uniformly applied mandatory retirement policy established by the employer between January 1, 1979 and April 24, 1979 shall be entitled to repay the refund of accumulated employee or member contributions to the respective retirement fund with compound interest at the rate of six percent from the date the refund was received to the date the refund is repaid. Upon repayment of a refund, the person shall be entitled if otherwise qualified to a proportionate annuity, with accrual to commence upon the first day of the month following the filing of a valid application for the annuity.~~

(4) Employers who employ fewer than 20 employees shall not be subject to the provisions of Laws 1978, chapter 649, until June 1, 1980.

Sec. 5. Minnesota Statutes 1986, section 354.44, subdivision 1a, is amended to read:

Subd. 1a. [MANDATORY RETIREMENT.] Notwithstanding the provisions of sections 43A.11 or 197.455 to 197.48, a member *who is serving as a faculty member or administrator under a contract of unlimited tenure or similar arrangement providing for unlimited tenure at an institution of higher education, as defined in section 1201(a) of the federal Higher*

Education Act of 1965, as amended through January 1, 1987, shall terminate employment at the end of the academic year in which the member reaches the age of 70. For purposes of this subdivision, an academic year shall be deemed to end August 31. No other member shall be subject to a mandatory retirement age provision. A member who terminates employment at any time during the academic year at the end of which the person is age 65 or older shall, for the purpose of determining eligibility for a proportionate retirement annuity, be considered to have been required to terminate employment at age 65 or older pursuant to section 356.32. Nothing contained in this subdivision shall preclude an employing unit covered by this chapter from employing a retired teacher as a substitute or part time teacher. Any person who has attained the age of at least 65 years, who is employed as a substitute or part time teacher and who earns an amount equal to the annual maximum earnings allowable for that age for the continued receipt of full benefit amounts monthly under the federal old age, survivors and disability insurance program as set by the secretary of health and human services pursuant to the provisions of United States Code, title 42, section 403, in any academic year from employment as a substitute or part time teacher, shall terminate employment for the remainder of that academic year. No person who is required to terminate employment as a teacher by virtue of this subdivision shall has attained the age of at least 65 years and who has retired under this chapter may resume membership in the retirement association as a result of subsequent employment as a substitute or part time teacher.

Sec. 6. Minnesota Statutes 1986, section 354A.21, is amended to read:

354A.21 [MANDATORY RETIREMENT; PROPORTIONATE ANNUITY.]

~~Notwithstanding the provisions of sections 197.46 to 197.48 or 354A.05, a teacher subject to the provisions of this chapter shall terminate employment at the end of the academic year in which the teacher reaches the age of 70.~~ A teacher who terminates employment at any time during the academic year at the end of which the teacher is required to terminate employment pursuant to this section shall be entitled upon application to a proportionate retirement annuity pursuant to section 356.32. Nothing contained in this section shall preclude a district from employing a retired teacher as a substitute teacher but upon having earned an amount equal to the annual maximum earnings allowable for that age for the continued receipt of full benefit amounts monthly under the federal old age, survivors and disability insurance program as set by the secretary of health and human services pursuant to the provisions of United States Code, title 42, section 403, in any academic year from employment as a substitute teacher, any person over the age of 70 years shall terminate employment for the remainder of that academic year. No person employed as a substitute teacher after reaching the ~~mandatory retirement age of at least 65 years and who has retired under this chapter~~ shall resume membership in the teachers retirement fund association by virtue of the employment as a substitute teacher.

Sec. 7. Minnesota Statutes 1986, section 422A.09, subdivision 3, is amended to read:

Subd. 3. [EXCEPTIONS FROM MEMBERSHIP] The exempt class shall consist of:

- (1) Employees who are members of any other organization or association

of the city on behalf of which a tax is levied by the city for the purpose of paying retirement allowances to disabled or superannuated employees.

(2) Persons filling elective position; provided that any elective officer holding an elective city office, except a judge of municipal court, shall, upon written application to the retirement board, be entitled to become a member of the contributing class of the fund, and after becoming a contributor to the fund be entitled to all benefits conferred upon employees of the contributing class except retirement on a service allowance, which shall be granted only upon completion of ten or more years of service and attaining at least age 60.

All retirement allowances shall be computed and determined as provided herein, except that in determining the number of years of service, credit shall be given for time served as an elective officer or employee, or member of an executive board or commission or any combination thereof. Persons who have served in elective positions which qualified them for membership in the fund prior to July 1, 1967, and who immediately thereafter hold elective office, first being appointed to that elective office in Hennepin county, may retain or resume membership in the fund as an elective officer of the county. The county shall collect and pay to the retirement fund the employee contribution as required pursuant to section 422A.10. The employer contribution on behalf of the elected officer shall be paid by the county. Before receiving a retirement allowance, or any other benefit, any person who claims credit for service pursuant to this section shall contribute to the fund an amount equal to the amount of contributions to the fund which the person would have made had the person been a contributor to the fund since the date the person first became eligible for membership in the fund, in accordance with section 422A.10, plus six percent compound interest.

(3) Persons serving without pay.

(4) Persons employed on a temporary basis, as doorkeepers, ticket takers, and attendants at the municipal auditorium, park recreation facilities, or like activities, employed less than 1000 hours, or its equivalent if employed on any other basis than an hourly basis, in any calendar year from January 1 to December 31, inclusive, provided that employees who were contributing members of the fund on July 1, 1959 shall not be affected by the exclusions contained in this section.

(5) A person who is exempted from the contributing class by Minnesota Statutes 1974, section 422A.09, subdivision 3, clauses (4) and (5), but who is employed by and paid, in whole or in part, by the city or any of its boards, departments, or commissions, operated as a department of the city government or independently, if financed in whole or in part by city funds, including any person employed by a public corporation, and including any person employed by Special School District No. 1, each of whom is not a member of any other retirement system, who later becomes a contributing member of the fund may elect to qualify at that time for credit by paying into the fund an amount equal to the amount of contributions to the fund which the person would have made had the person been a contributor to the fund since the date the person first qualified as an exempt member of the contributing class, in accordance with section 422A.10, plus six percent compound interest.

(6) Any person who is employed by the city or any of its boards, departments, commissions or a public corporation and is excluded from par-

ticipation in the fund by paragraph (4) shall be separated from the service upon reaching the age of 70 regardless of the provisions of the veterans preference act.

(7) Any person who is employed in subsidized on-the-job training, work experience or public service employment as an enrollee under the federal comprehensive employment and training act from and after March 30, 1978, unless the city council of the city of Minneapolis specifies that the person is to be considered as a provisional member of the retirement fund pursuant to section 356.451 or 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 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 to make the required employer contribution in addition to the required employee contribution.

Sec. 8. Minnesota Statutes 1986, section 423.076, is amended to read:

423.076 [RETIEMENT; POLICE AND FIRE DEPARTMENTS.]

A compulsory retirement age of not less than 65 years may be established that was in effect on March 3, 1983, for persons on the payroll of a police or fire department which does not come within the provisions of section 423.075 without being a violation of section ~~481.81~~ or section 363.02, subdivision 6, may be retained.

Sec. 9. [REPEALER.]

Minnesota Statutes 1986, sections 43A.34, subdivision 2; 125.12, subdivision 5; and 473.419, are repealed.

Sec. 10. [EFFECTIVE DATE.]

This article is effective the day following final enactment.

ARTICLE 3

STATE UNIVERSITY AND COLLEGE SUPPLEMENTAL
RETIREMENT PLAN CHANGES

Section 1. Minnesota Statutes 1986, section 136.81, subdivision 3, is amended to read:

Subd. 3. Prior to July 1 of each year, Each person described in section 136.80, subdivision 1, may indicate in writing, on forms provided by the executive director of the teachers retirement fund, the account of the Minnesota supplemental retirement investment fund in which salary deductions and state matching funds attributable to salary deductions be invested for the year beginning July 1. For that year and thereafter until a different written indication is made, the executive director of the teachers retirement fund shall purchase with the salary deductions and state matching funds attributable to the salary deductions shares in the account of the Minnesota supplemental retirement investment fund chosen by the person elect to purchase shares in one or a combination of the income share account, the growth share account, the money market account, the bond market account, or the common stock index account established in section 11A.17. The person may elect to participate in one or more of the investment accounts

in the fund by specifying, on a form provided by the executive director of the teachers retirement fund, the percentage of salary deductions and state matching funds to be used to purchase shares in each of the accounts.

Twice in any calendar year, each person described in section 136.80, subdivision 1, may indicate in writing on forms provided by the teachers retirement association a choice of options for subsequent purchases of shares. After a choice is made, and until a different written indication is made, the executive director shall purchase shares in the supplemental fund as selected.

A change in choice of investment option is effective no later than the first pay date that occurs 30 or more days after receipt of the request for a change.

Twice in any calendar year a person described in section 136.80, subdivision 1, may also change the investment options selected for all or a portion of the person's shares previously purchased. If a partial transfer is made a minimum of \$1,000 must be transferred and a minimum balance of \$1,000 must remain in the previously selected investment option. A change is restricted to a transfer from one or more accounts to a single account. Changes in investment options for the person's shares must be effected as soon as cash flow to an account practically permits, but not later than six months after the requested change.

If a person fails to indicate a choice as provided herein, the executive director of the teachers retirement fund shall purchase shares in the income account of the Minnesota supplemental retirement investment fund for the coming year. The shares so purchased shall stand in the name of the board of trustees of the teachers retirement fund, but a record shall be kept indicating the number of shares in each account of the Minnesota supplemental retirement ~~investment~~ fund purchased with the salary deductions and state matching funds attributable to the salary deductions of each person. The record shall be known as the "employee's share account record." The employee's share account record shall show, in addition to the number of shares therein, any cash balance of salary deductions or state matching funds attributable to those deductions which stands uninvested in shares.

Sec. 2. Minnesota Statutes 1986, section 136.82, subdivision 1, is amended to read:

Subdivision 1. The executive director of the teachers retirement fund shall redeem shares in the accounts of the Minnesota supplemental retirement investment fund standing in an employee's share account record under the following circumstances, but always in accordance with the laws and rules governing the Minnesota supplemental retirement investment fund:

(1) When requested to do so in writing on forms provided by the executive director of the teachers retirement fund by a person having shares to the credit of the employee's share account record, if the person is 60 55 years of age or older and is no longer employed by the state university board or state board for community colleges. In such case the person shall receive the cash realized on the redemption of the shares. The person may direct the redemption of not more than 20 percent of the person's shares in the employee's share account record in any one year and may not direct more than one redemption in any one calendar month; provided, however, that the state university board in the case of a person employed by the state university board, and the state board for community colleges in the case

of a person employed by the state board for community colleges, may, upon application, in their sole discretion, permit greater withdrawals in any one year.

(2) When requested to do so in writing on forms provided by the executive director of the teachers retirement fund by a person having shares to the credit of the employee's share account record, if the person has left employment by the state university board or state board for community colleges because of a total and permanent disability as defined in section 354.05, subdivision 14, and if the executive director of the teachers retirement fund finds that the person is totally and permanently disabled and will as a result be unable to return to similar employment, the person shall receive the cash realized on the redemption of the shares. The person may direct the redemption of not more than 20 percent of the shares in the employee's share account record in any one year and may not direct more than one redemption in any one calendar month; provided, however, that the state university board in the case of a person employed by the state university board, and the state board for community colleges in the case of a person employed by the state board for community colleges, may, upon application, in their sole discretion, permit greater withdrawals in any one year. If the person returns to good health, the person shall owe no restitution to the state or any fund created by its laws for a redemption directed pursuant to this paragraph.

(3) In the event of the death of a person having shares to the credit of the employee's share account record and leaving a surviving spouse, then when requested to do so in writing on forms provided by the executive director of the teachers retirement fund by the surviving spouse. The surviving spouse shall receive the cash realized on the redemption of the shares. The surviving spouse may direct the redemption of not more than 20 percent of the shares in the deceased spouse's employee's share account record in any one year and may not direct more than one redemption in any one calendar month; provided, however, that the state university board in the case of a person employed by the state university board, and the state board for community colleges in the case of a person employed by the state board for community colleges, may, upon application, in their sole discretion, permit greater withdrawals in any one year. In that case the surviving spouse shall receive the cash realized from the redemption of the shares. Upon the death of the surviving spouse any shares remaining in the employee's share account record shall be redeemed by the executive director of the teachers retirement fund and the cash realized therefrom distributed to the estate of the surviving spouse.

(4) In the event of the death of a person having shares to the credit of the employee's share account record and leaving no surviving spouse, then the executive director of the teachers retirement fund shall redeem all shares to the credit of the employee's share account record and pay the cash realized therefrom to the estate of the deceased person.

(5) When requested to do so in writing on forms provided by the executive director of the teachers retirement fund by a person having shares to the credit of the employee's share account record, if the person is no longer employed by the state university board or state board for community colleges, but does not qualify under the provisions of paragraphs (1) to (4). In that case one-half of the cash realized on the redemption of shares shall be received by the person and one-half shall become the property of the supplemental retirement plan account of the teachers retirement fund. An-

nually on July 1 the cancellations of the previous 12 months shall be prorated among the employees share accounts in proportion to the value which each account bears to the total value of all share accounts.

Sec. 3. [EFFECTIVE DATE.]

Section 1 is effective January 1, 1988. Section 2 is effective July 1, 1987.

ARTICLE 4

MINNESOTA STATE RETIREMENT SYSTEM
ADMINISTRATIVE CHANGES

Section 1. Minnesota Statutes 1986, section 352.12, subdivision 6, is amended to read:

Subd. 6. [DEATH AFTER SERVICE TERMINATION.] Except as provided in subdivision 1, if a former employee covered by the system dies and has not received an annuity, a retirement allowance or a disability benefit, a ~~refundment~~ refund shall be made to the last designated beneficiary or, if there be none, to the surviving spouse or, if none, to the employee's surviving children in equal shares or, if none, to the employee's surviving parents in equal shares or, if none, to the representative of the estate in an amount equal to accumulated employee contributions. *The refund must include interest at the rate of five percent per year compounded annually. The interest must be computed to the first day of the month in which the refund is processed and be based on fiscal year balances.*

Sec. 2. Minnesota Statutes 1986, section 352.96, subdivision 1, is amended to read:

Subdivision 1. [WRITTEN AGREEMENT FOR DEFERMENT ENTITLEMENT TO DEFER COMPENSATION.] At the request of an officer or employee of the state of Minnesota ~~or, an officer or employee of any political subdivision thereof, or an employee covered by any of the a retirement funds fund~~ enumerated in section 356.20, subdivision 2, the appointing authority shall by payroll deduction defer the payment of part of the compensation of the officer or employee. *The amount to be deferred must be as provided in a written agreement between the officer or employee and the state of Minnesota, the political subdivision, or other employing unit whose employees are covered by any of the public retirement funds enumerated in section 356.20, subdivision 2. The agreement must be in a form specified by the executive director of the Minnesota state retirement system in such a manner as will qualify the deferred amount for benefits afforded under federal and state tax laws, rules, and rulings.*

Sec. 3. Minnesota Statutes 1986, section 352.96, is amended by adding a subdivision to read:

Subd. 1a. [FAILURE TO IMPLEMENT PLAN.] *Implementation of the deferred compensation plan by the employing unit must be completed within 30 days of the request as provided in subdivision 1. If the employing unit fails to implement the deferred compensation plan, the employing unit may not defer compensation under any existing or new deferred compensation plan from the date of the request until the date on which the deferred compensation plan provided for in this section is implemented. The executive director of the Minnesota state retirement system may order any employing unit that fails to implement the deferred compensation plan provided for in this section upon a valid request to undertake that imple-*

mentation and may enforce that order in appropriate legal proceedings.

Sec. 4. Minnesota Statutes 1986, section 352D.015, subdivision 5, is amended to read:

Subd. 5. [COVERED EMPLOYMENT.] "Covered employment" means employment covered by this chapter or by chapter 352.

Sec. 5. [EFFECTIVE DATE.]

This article is effective the day following final enactment.

ARTICLE 5

PUBLIC EMPLOYEES RETIREMENT ASSOCIATION

ADMINISTRATIVE CHANGES

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. *Service is incidental if compensation for it amounts to no more than 25 percent of a person's total annual gross earnings for all 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 or in any school year for school employees. 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, *in writing*, to be not more than \$3,900 per calendar year or per school year for school employees for employment expected to be of a full year's duration or more than the prorated portion of \$3,900 per employment period for employment expected to be of less than a full year's duration, 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 are required to contribute to any other pension, relief or retirement fund established for the benefit of officers and employees of a governmental subdivision, except 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 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) (r) A person holding a part time adult supplementary vocational technical school license who renders 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.

(†) (s) A person exempt from licensure pursuant to section 125.031.

Sec. 2. Minnesota Statutes 1986, section 353.01, subdivision 20, is amended to read:

Subd. 20. [SURVIVING SPOUSE.] "Surviving spouse" means the unremarried spouse of a deceased member who ~~was living with~~ *had the same legal residence as* the member at the time of death, or at the time the member became totally and permanently disabled.

Sec. 3. Minnesota Statutes 1986, section 353.03, subdivision 3, is amended to read:

Subd. 3. [DUTIES AND POWERS OF THE BOARD.] (a) The board shall elect a president and vice-president. The board shall approve the staffing complement necessary to administer the fund. The cost of administering this chapter must be paid by the fund.

(b) The board shall adopt bylaws for its own government and for the management of the fund consistent with the laws of the state and may modify them at pleasure. It shall adopt, alter, and enforce reasonable rules consistent with the laws of the state for the administration and management of the fund, for the payment and collection of payments from members, and for the payment of withdrawals and benefits. It shall pass upon and allow or disallow all applications for membership in the fund and shall allow or disallow claims for withdrawals, pensions, or benefits payable from the fund. It shall adopt an appropriate mortality table based on experience of the fund as recommended by the association actuary, with interest set at the rate specified in section 356.215, subdivision 4, clause (4). It shall provide for the payment out of the fund of all necessary expenses for the administration of the fund and of all claims for withdrawals, pensions, or benefits allowed. The board shall approve or disapprove all recommendations and actions of the executive director made subject to its approval or disapproval by subdivision 3a.

(c) In passing upon all applications and claims, the board may summon, swear, hear, and examine witnesses and, in the case of claims for disability benefits, may require the claimant to submit to a medical examination by a physician of the board's choice, at the expense of the fund, as a condition precedent to the passing on the claim, and, in the case of all applications and claims, may conduct investigations necessary to determine their validity and merit. *The board shall establish procedures to assure that a benefit applicant and recipient may have a review of a benefit eligibility or benefit amount determination affecting the applicant or recipient. The review procedure may afford the benefit applicant or benefit recipient an opportunity to present views at any review proceeding conducted, but is not a contested case under chapter 14.*

(d) The board may continue to authorize the sale of life insurance to members under the insurance program in effect on January 1, 1985, but must not change that program without the approval of the commissioner of finance. The association shall not receive any financial benefit from the life insurance program beyond the amount necessary to reimburse the association for costs incurred in administering the program. The association shall not engage directly or indirectly in any other activity involving the sale or promotion of goods or services, or both, whether to members or nonmembers.

(e) The board shall establish procedures governing reimbursement of expenses to board members. These procedures shall define the types of activities and expenses that qualify for reimbursement, shall provide that all out-of-state travel must be authorized by the board, and shall provide for independent verification of claims for expense reimbursement. The procedures must comply with applicable rules and policies of the department of finance, the department of administration, and the department of employee relations.

(f) The board may purchase fiduciary liability insurance and official bonds for the officers and members of the board of trustees and employees of the association and may purchase property insurance or may establish a self-insurance risk reserve including, but not limited to, data processing insurance and "extra-expense" coverage.

Sec. 4. Minnesota Statutes 1986, section 353.27, subdivision 4, is amended to read:

Subd. 4. [EMPLOYERS REPORTING REQUIREMENTS; CONTRIBUTIONS; MEMBER STATUS.] The head of each department is hereby directed to cause employee contributions to be deducted from the salary of each member and to issue or approve one voucher payable to the state treasurer for the aggregate amount so deducted from such salaries, and at the same time to issue or approve one voucher for the aggregate amount of the employer contributions and the additional employer contributions for the same period of employment as that covered by the employee contributions, and to cause the same to be received not later than 20 calendar days thereafter in the office of the association. The head of each department shall, for each pay period in which employee contributions are deducted, submit to the association a salary deduction report, in the form prescribed by the executive director, showing (a) the legal names and the association membership numbers, listed in alphabetical order, of all members; (b) the legal names of all new public employees and the effective dates of appointment; (c) the amount of each salary deduction; (d) the amount of salary from which each deduction was made; (e) effective dates of all terminations of public service on account of members and if such terminations were caused by death or retirement, there shall be inserted after such date the applicable word, "~~death~~" or "~~retirement~~" status code as set by the association; (f) effective dates of all temporary layoffs and leaves of absence and if such leaves are sick leaves, there shall be inserted after such date the words, "~~sick leave~~" applicable status code as set by the association; and (g) the beginning and ending dates of the payroll period covered and the date of actual payment. Additionally, reports of contributions shall be accompanied by a membership enrollment form for each new employee in the form prescribed by the executive director, and it shall be the responsibility of department heads to obtain such enrollment forms from new employees to be submitted to the association within 30 days following the date of employment. The employers shall furnish such additional reports on magnetic media or other form of report as may be requested by the association executive director.

Sec. 5. Minnesota Statutes 1986, section 353.27, subdivision 10, is amended to read:

Subd. 10. [EMPLOYERS; FURNISH COPIES OF PAYROLL ABSTRACTS.] The head of each department is required to furnish the executive director with a carbon or duplicate copy of the departmental payroll

abstracts for the last pay period during the months of *January and July March and October*, respectively, in each year. It shall be the duty of said executive director to check the copies of all such payroll abstracts against the membership records of the association to ascertain whether or not any omissions have been made by any department head in the reporting of any new public employees for membership.

Sec. 6. Minnesota Statutes 1986, section 353.27, subdivision 12, is amended to read:

Subd. 12. [OMITTED SALARY DEDUCTIONS; OBLIGATIONS.] In the case of omission of required deductions from salary of an employee, past due for a period of 60 days or less, the head of the department shall deduct from the employee's next salary payment and forthwith remit to the executive director the amount of the employee contribution delinquency, with cumulative interest thereon at the rate of six percent per annum, compounded annually, from the date or dates each delinquent employee contribution was first payable, such interest to be paid by the employer. To the extent that any such omitted required deductions are not paid by the employee, they shall constitute a liability of the governmental subdivision which failed to make said required deductions, with interest thereon as hereinbefore specified. After July 1, 1973, any such omitted required deductions, past due for a period in excess of 60 days, shall become the sole obligation of the governmental subdivision from the time such deductions were first payable, together with interest thereon as hereinbefore specified. Any amount so due, together with employer and additional employer contributions at the rates and in the amounts specified in subdivisions 3 and 3a, with interest thereon at the rate of six percent compounded annually from the date they were first payable, shall be paid from the proceeds of a tax levy made pursuant to section 353.28, or from other funds available to the employer. Unless otherwise indicated, this subdivision shall have both retroactive and prospective application, and the governmental subdivision is liable retroactively and prospectively for all amounts due hereunder. No action for the recovery of delinquent employee and employer contributions or interest ~~thereon shall on contributions may be commenced and no payment of delinquent contributions may be made or accepted unless the association has already commenced action for recovery of delinquent contributions~~, after the expiration of three calendar years next following the calendar year in which the contributions were omitted.

Sec. 7. Minnesota Statutes 1986, section 353.28, subdivision 5, is amended to read:

Subd. 5. Any amount which becomes due and payable pursuant to this section or section 353.27, subdivision 4 shall bear compound interest at the rate of six percent per year from the date due *for the next five calendar days, and compound interest at the rate of ten percent per year for amounts past due in excess of five calendar days until the date paid payment is actually received in the office of the association*, with a minimum charge of \$5 \$10.

Sec. 8. Minnesota Statutes 1986, section 353.29, subdivision 8, is amended to read:

Subd. 8. [ANNUITIES; PAYMENT; EVIDENCE OF RECEIPT.] Payment of any annuity or benefit for a given month shall be mailed by the association to the annuitant, recipient of a disability benefit, or survivor,

during the first week of that month. Evidence of receipt of warrants issued by the association in payment of an annuity or benefit shall be submitted by the payee thereof to the association periodically at times specified by the board of trustees, together with a written declaration that the annuitant or recipient of a disability benefit has or has not returned to public service; that the surviving dependent spouse has or has not remarried; and shall be furnished on forms provided by the executive director thereof, before the association shall pay to the ~~annuitant~~, disability recipient, or survivor for the next ensuing month, the ~~annuity or benefit~~ to which the person otherwise may be entitled. *In lieu of the evidence of receipt of warrants for recipients of an annuity or a benefit, the board may contract for professional services to identify deceased annuitants and benefit recipients through a review of nationally maintained death records.*

Sec. 9. Minnesota Statutes 1986, section 353.33, is amended by adding a subdivision to read:

Subd. 5a. [RECOVERY OF DISABILITY OVERPAYMENTS.] An overpayment of disability benefits must be recovered by the executive director by suspending or reducing the payment of disability benefits, survivor benefits, survivor annuities, refunds, or retirement annuities until all overpaid money has been recovered.

Sec. 10. Minnesota Statutes 1986, section 353.34, is amended by adding a subdivision to read:

Subd. 7. [SICK LEAVE.] A member who is on an authorized sick leave and has received a maximum of one year of allowable service in accordance with section 353.01, subdivision 16, paragraph (4), and who does not return to public service for at least 120 calendar days following the year of allowable service may elect to receive a refund of accumulated deductions as provided in subdivision 2. Application for a refund may not be made before the expiration of 120 calendar days following the end of one year of allowable service for employees on authorized sick leave.

Sec. 11. Minnesota Statutes 1986, section 353.36, subdivision 2, is amended to read:

Subd. 2. [EMPLOYEE CONTRIBUTIONS; INTEREST; MATCHING PAYMENT.] A member who has at least one year of allowable service with the association, whose public service terminated before July 1, 1982, and who has prior public service on which salary deductions were not taken for the retirement fund and who does not have the required minimum number of years of allowable service credit to qualify for an annuity, may apply for an annuity if otherwise qualified, and within 90 days thereafter purchase whatever period of the member's prior public service which is necessary to bring the member's total allowable service credit to the minimum, provided that the most recent period of prior uncredited public service shall be purchased first. The member may gain allowable service credit by paying the applicable percentage of on the salary covered under the law in effect at the time that the prior public service was performed. The applicable member contribution percentage, if the member is a basic member, the applicable percentage is eight percent, and if the member is a coordinated member, the applicable percentage is four percent. An amount equal to the employer and employer additional contributions specified in section 353.27, subdivisions 3 and 3a, plus interest on the total amount representing employee, employer and employer additional contributions at the rate of six percent per annum compounded annually from the date first

payable to the date payment is made, shall also be paid. The employer, at its sole discretion, may agree to pay the amount representing the employer and employer additional contributions pursuant to subdivision 2a. An annuity shall accrue as provided in section 353.29, subdivision 7, but no annuity shall be paid until the applicant's payment is made in full for the prior public service. If payment is not made within such 90 days, the application for retirement shall be void.

Sec. 12. Minnesota Statutes 1986, section 353.64, subdivision 1, is amended to read:

Subdivision 1. 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 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 *stating that the employee should be covered by the police and fire fund* 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 *stating that the employee should be covered by the police and fire fund* 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 who by virtue of that employment is required to contribute to any other pension, relief, or retirement fund established for the benefit of officers or employees of a governmental subdivision 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. 13. Minnesota Statutes 1986, section 353.64, subdivision 2, is amended to read:

Subd. 2. Before a governing body may declare a position to be that of a police officer, the duties of the person so employed shall, as a minimum, include services as an officer of a designated police department or sheriff's office or person in charge of a designated police department or sheriff's office *whose primary job it is to enforce the law, who is licensed by the Minnesota board of peace officer standards and training under sections 626.84 to 626.855*, who is engaged in the hazards of protecting the safety and property of others and who has the power to arrest by warrant.

Sec. 14. Minnesota Statutes 1986, section 353.656, subdivision 6, is amended to read:

Subd. 6. [RETIREMENT STATUS AT AGE 55.] All disability benefits payable under this section shall terminate when the disabled firefighter or

police officer becomes 55 years of age. If the person is still disabled when the person attains the age of 55 years, the person shall be deemed to be a retired member and, if the person had elected an optional annuity pursuant to subdivision 1a, shall receive an annuity in accordance with the terms of the optional annuity previously elected, or, if the person had not elected an optional annuity pursuant to subdivision 1a, may then elect to receive either a normal retirement annuity computed pursuant to section 353.651, or an optional annuity as provided in section 353.30, subdivision 3, *or normal retirement annuity equal to the disability benefit paid before the person reached age 55*. Any disabled person who becomes age 55 shall have the annuity computed in accordance with the law in effect upon attainment of age 55. Election of an optional annuity shall be made prior to the person attaining the age of 55 years. If an optional annuity is elected, the election shall be effective on the date on which the person attains the age of 55 years and the optional annuity shall begin to accrue on the first day of the month next following the month in which the person attains the age of 55 years.

Sec. 15. Minnesota Statutes 1986, section 353.656, is amended by adding a subdivision to read:

Subd. 7. [DISABLED MEMBERS.] Notwithstanding the age-55 requirement of section 353.651, subdivision 1, a member of the police and fire fund age 55 or over who has five or more years of allowable service but less than ten years of allowable service, and who becomes disabled may elect to draw a retirement annuity in accordance with section 353.651, subdivision 3, based on the actual years of allowable service.

Sec. 16. Minnesota Statutes 1986, section 353.657, is amended to read:
353.657 [SURVIVOR BENEFITS.]

Subdivision 1. In the event any member of the police and fire fund shall die from any cause, the association shall grant survivor benefits to any surviving spouse who ~~was residing with~~ *had the same legal residence as* the member at the time of death and who was married to the member for a period of at least one year, *except that if death occurs in the line of duty no time limit is required*, and to a dependent child or children, unmarried and under the age of 18 years. The spouse and child or children shall be entitled to monthly benefits as provided in the following subdivisions.

Subd. 2. The spouse, for life or until remarriage, shall receive a monthly benefit equal to 30 percent of the member's average *full-time* monthly salary *earned rate* as a police officer or firefighter ~~on which employee contributions were paid over the last full six months of allowable service preceding death in effect over the last six months of allowable service preceding the month in which death occurred.~~

Subd. 2a. If a member *or former member* who has attained the age of at least 50 years and has credit for not less than ten years allowable service *or who has credit for at least 30 years of allowable service, regardless of age attained*, dies before public service has terminated, or if an employee who has filed a valid application for an annuity or disability benefit prior to termination of public service dies before the annuity or benefit has become payable, notwithstanding any designation of beneficiary to the contrary, the surviving spouse may elect to receive, in lieu of a refund with interest provided in section 353.32, subdivision 1, or survivor benefits otherwise payable pursuant to subdivisions 1 and 2, an annuity equal to

the 100 percent joint and survivor annuity which the member could have qualified for on the date of death, computed as provided in sections 353.651, subdivisions 2 and 3, and 353.30, subdivision 3. The surviving spouse may apply for the annuity at any time after the date on which the deceased employee would have attained the required age for retirement based on the employee's allowable service. Sections 353.34, subdivision 3, and 353.71, subdivision 2, apply to a deferred annuity payable under this subdivision. No payment shall accrue beyond the end of the month in which entitlement to such annuity has terminated. An amount equal to the excess, if any, of the accumulated contributions which were credited to the account of the deceased employee over and above the total of the annuities paid and payable to the surviving spouse shall be paid to the deceased member's last designated beneficiary or, if none, to the legal representative of the estate of such deceased member. Any member may request in writing that this subdivision not apply and that payment be made only to the designated beneficiary, as otherwise provided by this chapter.

Subd. 3. Each dependent child, until the child reaches the age of 18 years, shall receive a monthly benefit equal to ten percent of the member's average *full-time* monthly salary ~~earned rate~~ as a police officer or firefighter ~~on which employee contributions were paid over the last full six months of allowable service preceding death in effect over the last six months of allowable service preceding the month in which death occurred.~~ Payments for the benefit of any qualified dependent child under the age of 18 years shall be made to the surviving parent, or if there be none, to the legal guardian of the child or to any adult person with whom the child may at the time be living, provided only that the parent or other person to whom any amount is to be paid shall have advised the board in writing that the amount will be held or used in trust for the benefit of the child. The maximum monthly benefit for any one family shall not exceed an amount equal to 50 percent of the member's specified average monthly salary, and the minimum benefit per family shall not be less than 30 percent of the member's specified average monthly salary.

Subd. 4. If the member shall die under circumstances which entitle a surviving spouse and dependent children to receive benefits under the workers' compensation law, the amounts so received by them shall not be deducted from the benefits payable under this section.

Sec. 17. [RETROACTIVE AUTHORIZATION OF PAYMENTS TO CERTAIN DISABILITANTS.]

Notwithstanding any law to the contrary, a disabilitant who became eligible for an annuity under section 15 after May 31, 1986, but before June 1, 1987, may receive an annuity retroactive to the first of the month following the date of disability.

Sec. 18. [REPEALER.]

Minnesota Statutes 1986, section 353.64, subdivision 6, is repealed.

Sec. 19. [EFFECTIVE DATE.]

Sections 15 and 17 are effective June 1, 1986. Sections 1 to 14, 16, and 18 are effective the day following final enactment.

ARTICLE 6

TEACHERS RETIREMENT ASSOCIATION
ADMINISTRATIVE CHANGES

Section 1. Minnesota Statutes 1986, section 354.05, subdivision 35, is amended to read:

Subd. 35. [SALARY.] "Salary" means the compensation paid to a teacher excluding lump sum annual or sick leave payments and all ~~forms of severance~~ payments *in lieu of any employer paid group insurance coverage, including the difference between single and family rates, that may be paid to a member with single coverage.* "Salary" *does not mean any form of payment made in lieu of any other employer paid fringe benefit or expense, or any form of severance payments.* Severance payments ~~includes include,~~ but *is are* not limited to:

- (a) payments to an employee to terminate employment;
- (b) payments, or that portion of payments, that are not clearly for performance of services to the employer; and
- (c) payments to an administrator or former administrator serving as an advisor to a successor or as a consultant to the employer under an agreement to terminate employment within two years or less for compensation that is significantly different than the most recent contract salary.

Sec. 2. Minnesota Statutes 1986, section 354.05, is amended by adding a subdivision to read:

Subd. 37. [TERMINATION OF TEACHING SERVICE.] "*Termination of teaching service*" means the withdrawal of a member from active teaching service by resignation or the termination of the member's teaching contract by the employer.

Sec. 3. Minnesota Statutes 1986, section 354.06, subdivision 1, is amended to read:

Subdivision 1. The management of the fund shall be vested in a board of eight trustees which shall be known as the board of trustees of the teachers retirement fund. It shall be composed of the following persons: the commissioner of education, the commissioner of finance, the commissioner of commerce, four members of the fund who shall be elected by the members of the fund and one retiree who shall be elected by the retirees of the fund. The five elected members of the board of trustees shall be chosen by mail ballot in a manner which shall be fixed by the board of trustees of the fund. In every odd numbered year there shall be elected two members of the fund to the board of trustees for terms of four years commencing on the first of July next succeeding their election. In every odd numbered year there shall be elected one retiree of the fund to the board of trustees for a term of two years commencing on the first of July next succeeding the election. *The filing of candidacy for a retiree election must include a petition of endorsement signed by at least ten retirees of the fund.* Each election shall be completed by June first of each succeeding odd numbered year. In the case of elective members, any vacancy shall be filled by appointment by the remainder of the board, and the appointee shall serve until the members or retirees of the fund at the next regular election have elected a trustee to serve for the unexpired term caused by the vacancy. No member or retiree shall be appointed by the board, or elected by the members of the fund as a trustee if the person is not a

member or retiree of the fund in good standing at the time of the appointment or election. It shall be the duty of the board of trustees to faithfully administer the law without prejudice and consistent with the expressed intent of the legislature. They shall act as trustees with a fiduciary obligation to the state of Minnesota which created the fund, the taxpayers which aid in financing it and the teachers who are its beneficiaries.

Sec. 4. Minnesota Statutes 1986, section 354.07, subdivision 3, is amended to read:

Subd. 3. *The attorney general shall be legal advisor to the board and the executive director. The board may sue or be sued in the name of the board of trustees of the teachers retirement fund and in all actions brought by or against it the board shall be represented by the attorney general. Venue of all actions is in the Ramsey county district court.*

Sec. 5. Minnesota Statutes 1986, section 354.094, subdivision 1, is amended to read:

Subdivision 1. [SERVICE CREDIT CONTRIBUTIONS.] A member granted an extended leave of absence pursuant to section 125.60 or 136.88, except as provided in subdivision 1a or 1b, may pay employee contributions and receive allowable service credit toward annuities and other benefits under this chapter, for each year of the leave provided the member and the employing board make the required employer contribution in any proportion they may agree upon, during the period of the leave which shall not exceed five years. Except as provided in subdivision 1a or 1b, the state shall not pay employer contributions into the fund for any year for which a member is on extended leave. The employee and employer contributions shall be based upon the rates of contribution prescribed by section 354.42 for the salary received during the year immediately preceding the extended leave. Payments for the years for which a member is receiving service credit while on extended leave shall be made on or before the later of June 30 of each fiscal year for which service credit is received or within 30 days after first notification by the association of the amount due, ~~whichever is later~~ if requested by the member, is given by the association. No payment is permitted after the following September 30. Payments received after June 30 must include six percent interest from June 30 through the end of the month in which payment is received.

Sec. 6. Minnesota Statutes 1986, section 354.44, subdivision 5, is amended to read:

Subd. 5. [RESUMPTION OF TEACHING.] Any person who retired under any provision of any retirement law applicable to schools and institutions covered by the provisions of this chapter and has thereafter resumed teaching in any school or institution to which this chapter applies shall continue to receive payments in accordance with the annuity except that during any year in which the person's income from the teaching service is in an amount equal to or greater than the annual maximum earnings allowable for that age for the continued receipt of full benefit amounts monthly under the federal old age, survivors and disability insurance program as set by the secretary of health and human services pursuant to the provisions of United States Code, title 42, section 403. For the purpose of this subdivision, income from teaching service shall include, *but is not limited to:*

(a) all income ~~from~~ for services performed as a consultant or an independent contractor for an employer unit covered by the provisions of this

chapter; and

(b) the greater of either the income received or an amount based on the rate paid with respect to an administrative position, consultant, or independent contractor in an employer unit with approximately the same number of pupils and at the same level as the position occupied by the person who resumes teaching service.

In the event that the person has not yet reached the minimum age for the receipt of social security benefits, the maximum earnings for the person shall be equal to the annual maximum earnings allowable for the minimum age for the receipt of social security benefits. The amount in excess of the applicable reemployment income maximum specified in this subdivision shall be deducted from the annuity payable for the year immediately following the year in which the excess amount was earned. After a person has reached the age of 70, the person shall receive the annuity in full regardless of the amount of income.

Sec. 7. Minnesota Statutes 1986, section 354.46, subdivision 5, is amended to read:

Subd. 5. [PAYMENT TO DESIGNATED BENEFICIARY.] Any member and the spouse of the member may make a joint specification in writing on a form prescribed by the executive director that the benefits provided in subdivision 2, or in section 354.47, subdivision 1, shall be paid only to a designated beneficiary. For purposes of this subdivision, a designated beneficiary may only be either a former spouse or a child, either natural or adopted, of the member, *but more than one beneficiary may be designated for the benefit provided in section 354.47, subdivision 1.*

Sec. 8. Minnesota Statutes 1986, section 354.48, subdivision 7, is amended to read:

Subd. 7. [PARTIAL REEMPLOYMENT.] Should the disabled person resume a gainful occupation ~~and have in which earnings are less than the person's salary at the date of disability or the salary currently paid for similar positions, the board shall continue the disability benefit in an amount which when added to of such earnings does not exceed the person's plus the disability benefit originally granted may not exceed the salary at the date of disability or the salary currently paid for similar positions, whichever is lower, provided the disability benefit in such case does not exceed the disability benefit originally allowed. If the sum of such earnings plus the disability benefit originally granted exceeds the salary at the date of disability, the amount of excess earnings must be deducted from the disability benefit.~~ The provisions of this subdivision shall not prohibit the board from making a determination that a member is no longer totally and permanently disabled or that the member is engaged or is able to engage in a substantial gainful occupation based on the results of the regular physical examinations required by subdivision 6 or any other physical examinations required by the board. Payment of the disability benefit provided in this subdivision during a period of partial reemployment shall be discontinued if the board finds that the member is no longer totally and permanently disabled.

Sec. 9. Minnesota Statutes 1986, section 354.51, subdivision 5, is amended to read:

Subd. 5. In the event that full required member contributions are not deducted from the salary of a teacher, payment shall be made as follows:

(a) Payment of shortages in member deductions on salary earned after ~~July 1, 1961~~ *June 30, 1957*, and prior to July 1, 1981 ~~shall, may be made within one year from the end of the fiscal year in which the shortage in deductions occurred in order to be accepted without an interest charge. If payment is not made within this period of time, it may be paid by the member any time prior to retirement provided that the.~~ Payment shall include six percent interest compounded annually from the end of the fiscal year in which the shortage occurred to the end of the month in which payment is made and the interest shall be credited to the fund. If payment of a shortage in deductions is not made, the formula service credit of the member shall be prorated pursuant to section 354.05, subdivision 25, clause (3).

(b) Payment of shortages in member deductions on salary earned after June 30, 1981 shall be the sole obligation of the employing unit and shall be payable by the employing unit upon notification by the executive director of the shortage with interest at the rate of six percent per annum, compounded annually, from the end of the fiscal year in which the shortage occurred to the end of the month in which payment is made and the interest shall be credited to the fund. Effective July 1, 1986, the employing unit shall also pay the employer contributions as specified in section 354.42, subdivisions 3 and 5 for such shortages. If the shortage payment is not paid by the employing unit within 60 days of notification, the executive director shall certify the amount of the shortage payment to the applicable county auditor, who shall spread a levy in the amount of the shortage payment over the taxable property of the taxing district of the employing unit if the employing unit is supported by property taxes, or to the commissioner of finance, who shall deduct the amount from any state aid or appropriation amount applicable to the employing unit if the employing unit is not supported by property taxes.

(c) Payment may not be made for shortages in member deductions on salary earned prior to July 1, 1957.

Sec. 10. Minnesota Statutes 1986, section 354.55, subdivision 11, is amended to read:

Subd. 11. Any person covered under section 354.44, subdivisions 6 and 7, who ceases to render teaching service may leave the person's accumulated deductions in the fund for the purpose of receiving a deferred annuity at retirement. Eligibility for an annuity under this subdivision shall be governed pursuant to section 354.44, subdivision 1, or 354.60.

The amount of the deferred retirement annuity shall be determined by section 354.44, subdivisions 6 and 7, and augmented as provided herein. The required reserves related to that portion of the annuity which had accrued at the time the member ceased to render teaching service shall be augmented by interest compounded annually from the first day of the month following the month during which the member ceased to render teaching service to the effective date of retirement. There shall be no augmentation if this period is less than three months or if this period commences prior to July 1, 1971. The rates of interest used for this purpose shall be five percent commencing July 1, 1971, until January 1, 1981, and three percent thereafter. If a person has more than one period of uninterrupted service, a separate average salary determined under section 354.44, subdivision 6, must be used for each period and the required reserves related to each period shall be augmented by interest pursuant to this subdivision. The

sum of the augmented required reserves so determined shall be the basis for purchasing the deferred annuity. *If a person repays a refund, the service restored by the repayment must be considered as continuous with the next period of service for which the person has credit with this fund.* If a person does not render teaching service in any one or more consecutive fiscal years and then resumes teaching service, the formula percentages used from date of resumption will be those applicable to new members. The mortality table and interest assumption contained therein used to compute the annuity shall be determined by the law in effect at the time of the member's retirement. A period of uninterrupted service for the purposes of this subdivision shall mean a period of covered teaching service during which the member has not been separated from active service for more than one fiscal year.

The provisions of this subdivision shall not apply to variable account accumulations as defined in section 354.05, subdivision 23.

In no case shall the annuity payable herein be less than the amount of annuity payable pursuant to section 354.44, subdivisions 6 and 7.

The requirements and provisions for retirement prior to age 65 contained in section 354.44, subdivision 6, clause (2) shall also apply to an employee fulfilling the requirements with a combination of service as provided in section 354.60.

The augmentation provided by this subdivision applies to the benefit provided in section 354.46, subdivision 2.

The augmentation provided by this subdivision shall not apply to any period in which a person is on an approved leave of absence from an employer unit covered by the provisions of this chapter.

Sec. 11. Minnesota Statutes 1986, section 354.62, subdivision 5, is amended to read:

Subd. 5. [VARIABLE RETIREMENT ANNUITY.] (1) At retirement the amount of the member's variable account accumulation in the employee variable annuity contribution account, based on the valuation at the previous fiscal year end plus any contributions made by the person since the end of the previous fiscal year, and an equal amount from the employer variable annuity contribution account shall be transferred to the variable annuity reserve account, and the variable retirement annuity for the member shall be determined by the member's age, and sex, and the amount transferred for the member to the variable annuity reserve account at the date of retirement. The amount of the annuity shall be calculated on the basis of an appropriate annuity table of mortality with an interest assumption of eight percent, except that if the member elects to have the accumulation transferred to the Minnesota postretirement investment fund as authorized by clause (8), the annuity shall be calculated with an interest assumption of five percent.

(2) Whenever the admitted value of the annuity reserve account of the variable annuity division, as of June 30 of any year, exceeds or is less than the then present value of all variable annuities in force, determined in accordance with the rate of interest and approved actuarial tables then in effect, by at least two percent of the present value, the amount of each variable annuity payment shall be proportionately increased or decreased for the following year.

(3) The death benefit payable in the event of a member's death prior to retirement shall be a lump sum refund of a member's variable account accumulation, based on the valuation at the previous fiscal year end plus any contributions made by the person since the end of the previous fiscal year, to the surviving spouse, or if there is no surviving spouse to the designated beneficiary. Except that if a member has made an election in accordance with joint and survivor annuity is payable under section 354.46, subdivision 2, then the surviving spouse shall receive a joint and survivor variable annuity as described in section 354.44 must be paid and computed as provided in clause (1). An amount equal to the lump sum refund made in this clause shall be transferred from the employer contribution account to the variable annuity turnover account.

(4) Except as provided in section 354.44, subdivision 7, any person who ceases to be a member by reason of termination of teaching service, shall be entitled to a lump sum refundment of the member's variable account accumulations, based on the valuation at the previous fiscal year end plus any contributions made by the person since the end of the previous fiscal year. Application for a refundment may be made no sooner than 30 days after termination of teaching service if the applicant has not again become a teacher. Repayment of a refundment upon resumption of teaching is not permitted under this section. An amount equal to the refundment to the member shall be transferred from the employer contribution account to the variable annuity turnover account.

(5) If a member is determined to be totally and permanently disabled as provided in sections 354.05, subdivision 14; and 354.48, the member shall be entitled to the annuity provided in this subdivision.

(6) Those members eligible for retirement as provided in section 354.44, subdivision 1 shall upon application for the annuity provided therein be entitled to the annuity provided in this subdivision. The annuity elected in accordance with sections 354.44, and 354.45 shall be the annuity applicable to this subdivision.

(7) Notwithstanding section 356.18, increases in annuity payments pursuant to this section shall be made automatically unless written notice is filed by the annuitant with the teachers retirement association board requesting that the increase not be made.

(8) At retirement, a member may elect to have the amount of the member's variable annuity accumulation in the employee variable annuity contribution account and an equal amount from the employer variable annuity contribution account transferred to the Minnesota postretirement investment fund as provided in section 354.63, subdivision 2, clause (2). This election may also be made by a surviving spouse who receives an annuity under clause (3). The election shall be made on a form provided by the executive secretary director.

Sec. 12. Minnesota Statutes 1986, section 354.62, is amended by adding a subdivision to read:

Subd. 6. [RECALCULATION OF CERTAIN ANNUITIES.] A variable annuity effective prior to May 1, 1984, must be recalculated on June 30, 1987, based on an appropriate annuity table of mortality with an interest assumption of eight percent, and the adjusted annuity must begin to accrue July 1, 1987.

Sec. 13. [EFFECTIVE DATE.]

Section 1 is effective July 1, 1987. Sections 2 to 12 are effective the day following final enactment.

ARTICLE 7

PUBLIC PENSION PLAN AUDIT RESPONSIBILITIES

Section 1. Minnesota Statutes 1986, section 354A.021, is amended by adding a subdivision to read:

Subd. 7. [AUDIT BY LEGISLATIVE AUDITOR.] The books and accounts of each teachers retirement fund association must be examined and audited periodically as considered necessary by the state auditor. A full and detailed report of the examination and audit must be made and a copy provided to the teachers retirement fund association board of trustees. The cost of any examination and audit must be paid by the teachers retirement fund association in accordance with section 6.56. For purposes of section 6.56, each teachers retirement fund association is considered a state agency.

Sec. 2. [EFFECTIVE DATE.]

This article is effective July 1, 1987.

ARTICLE 8

COMBINED SERVICE DISABILITY AND SURVIVOR BENEFITS

Section 1. [356.302] [DISABILITY BENEFIT WITH COMBINED SERVICE.]

Subdivision 1. [DEFINITIONS.] (a) The terms used in this section are defined in this subdivision.

(b) "Average salary" means the highest average of covered salary for the appropriate period of credited service that is required for the calculation of a disability benefit by the covered retirement plan and that is drawn from any period of credited service and covered salary in a covered retirement plan.

(c) "Covered retirement plan" or "plan" means a retirement plan listed in subdivision 7.

(d) "Duty-related" means a disabling illness or injury that occurred while the person was actively engaged in employment duties or that arose out of the person's active employment duties.

(e) "General employee retirement plan" means a covered retirement plan listed in subdivision 7, clauses (1) to (8).

(f) "Occupationally disabled" means the condition of having any medically determinable physical or mental impairment that makes a person unable to satisfactorily perform the minimum requirements of the person's employment position or a substantially similar employment position.

(g) "Public safety employee retirement plan" means a covered retirement plan listed in subdivision 7, clauses (9) to (11).

(h) "Totally and permanently disabled" means the condition of having any medically determinable physical or mental impairment that makes a person unable to engage in any substantial gainful activity and that is expected to continue or has continued for a period of at least one year or that is expected to result directly in the person's death.

Subd. 2. [ENTITLEMENT.] Notwithstanding any law to the contrary

governing any covered retirement plan, a member of a covered retirement plan may receive a combined service disability benefit from each covered retirement plan in which the person has credit for at least six months of allowable service if that person meets the applicable qualifying conditions. Subdivision 3 applies to a member of a general employee retirement plan. Subdivision 4 applies to a member of a public safety employee retirement plan. Subdivision 5 applies to a member of a covered retirement plan with general employee and public safety employee retirement plan service.

Subd. 3. [GENERAL EMPLOYEE PLAN ELIGIBILITY REQUIREMENTS.] A disabled member of a covered retirement plan who has credit for allowable service in a combination of general employee retirement plans is entitled to a combined service disability benefit if the member:

(1) is less than 65 years of age on the date of application for the disability benefit;

(2) has become totally and permanently disabled;

(3) has credit for allowable service in any combination of general employee retirement plans totaling at least ten years if the person has not reached age 50 or at least five years if the person has reached age 50;

(4) has credit for at least six months of allowable service with the current general employee retirement plan before the commencement of the disability;

(5) has at least five continuous years of allowable service credit by the general employee retirement plan or has at least a total of five years of allowable service credit by a combination of general employee retirement plans in a 72-month period during which no interruption of allowable service credit from a termination of employment exceeded 29 days; and

(6) is not receiving a retirement annuity or disability benefit from any covered general employee retirement plan at the time of the commencement of the disability.

Subd. 4. [PUBLIC SAFETY PLAN ELIGIBILITY REQUIREMENTS.] A disabled member of a covered retirement plan who has credit for allowable service in a combination of public safety employee retirement plans is entitled to a combined service disability benefit if the member:

(1) is less than 55 years of age on the date of application for the disability benefit;

(2) has become occupationally disabled;

(3) has credit for allowable service in any combination of public safety employee retirement plans totaling at least one year if the disability is duty-related or totaling at least five years if the disability is not duty-related;

(4) has credit for at least six months of allowable service with the current public safety employee retirement plan before the commencement of the disability; and

(5) is not receiving a retirement annuity or disability benefit from any covered public safety employee retirement plan at the time of the commencement of the disability.

Subd. 5. [GENERAL AND PUBLIC SAFETY PLAN ELIGIBILITY REQUIREMENTS.] A disabled member of a covered retirement plan who has credit for allowable service in a combination of both public safety

employee retirement plans and general employee retirement plans must meet the qualifying requirements in subdivisions 3 and 4 to receive a combined service disability benefit from the applicable general employee and public safety employee retirement plans, except that the person need only be a member of a covered retirement plan at the time of the commencement of the disability and that the minimum allowable service requirements of subdivision 3, clauses (3) and (5), and subdivision 4, clauses (3) and (4), may be met in any combination of covered retirement plans.

Subd. 6. [COMBINED SERVICE DISABILITY BENEFIT COMPUTATION.] (a) *The combined service disability benefit from each covered retirement plan must be based on the allowable service in each retirement plan, except as specified in paragraphs (b) to (f).*

(b) *The disability benefit must be governed by the law in effect for each covered retirement plan on the date of the commencement of the member's most recent qualifying disability as a member of a covered retirement plan.*

(c) *All plans must base the disability benefit on the same average salary to the extent practicable.*

(d) *If the method of the covered retirement plan used to compute a disability benefit varies based on the length of allowable service credit, the benefit accrual formula percentages used by the plan must recognize the allowable service credit in the plan as a continuation of any previous allowable service credit with other covered retirement plans.*

(e) *If the covered retirement plan is a defined benefit or formula plan and the method used to compute a disability benefit does not vary based on the length of allowable service credit, the portion of the specified benefit amount from the plan must bear the same proportion to the total specified benefit amount as the allowable service credit in that plan bears to the total allowable service credit in all covered retirement plans. If the covered retirement plan is a defined contribution or nonformula plan, the disability benefit amount for allowable service under the plan is not affected, but the service and covered salary under the plan must be used in calculations by other covered retirement plans.*

(f) *A period for which a person has allowable service credit in more than one covered retirement plan must be used only once in determining the total allowable service credit for calculating the combined service disability benefit, with any period of duplicated service credit handled as provided in section 356.30, subdivision 1, clause (3), items (i) and (j).*

Subd. 7. [COVERED RETIREMENT PLANS.] *This section applies to the following retirement plans:*

- (1) *state employees retirement fund, established by chapter 352;*
- (2) *unclassified employees retirement plan, established by chapter 352D;*
- (3) *public employees retirement association, established by chapter 353;*
- (4) *teachers retirement fund, established by chapter 354;*
- (5) *Duluth teachers retirement fund association, established by chapter 354A;*
- (6) *Minneapolis teachers retirement fund association, established by chapter 354A;*
- (7) *St. Paul teachers retirement fund association, established by chapter*

354A;

- (8) Minneapolis employees retirement fund, established by chapter 422A;
- (9) correctional employees retirement plan, established by chapter 352;
- (10) state patrol retirement fund, established by chapter 352B; and
- (11) public employees police and fire fund, established by chapter 353.

Sec. 2. [356.303] [SURVIVOR BENEFIT WITH COMBINED SERVICE.]

Subdivision 1. [DEFINITIONS.] (a) The terms used in this section are defined in this subdivision.

(b) "Average salary" means the highest average of covered salary for the appropriate period of credited service that is required for the calculation of a survivor annuity or a survivor benefit, whichever applies, by the covered retirement plan and that is drawn from any period of credited service and covered salary in a covered retirement plan.

(c) "Covered retirement plan" or "plan" means a retirement plan listed in subdivision 4.

(d) "Deceased member" means a person who on the date of death was an active member of a covered retirement plan and who has reached the minimum age, if any, required by the covered retirement plan as part of qualifying for a survivor annuity or survivor benefit.

(e) "Surviving child" means a child of a deceased member (1) who is unmarried, (2) who has not reached age 18, or, if a full-time student, who has not reached a higher age specified in the applicable covered retirement plan, and (3) if specified by that plan, who was actually dependent on the deceased member for a specified proportion of support before the deceased member's death. "Surviving child" includes a natural child, an adopted child, or a child of a deceased member who is conceived during the member's lifetime and is born after the member's death.

(f) "Surviving spouse" means the legally married husband or wife of the deceased member who was residing with the deceased member on the date of death and who, if specified by the applicable covered retirement plan, had been married to the deceased member for a specified period of time before the death of the deceased member.

(g) "Survivor annuity" means the entitlement to a future amount payable to a survivor as the remainder interest of an optional annuity form implied by law as having been chosen by a deceased member before the date of death and effective on the date of death or provided automatically.

(h) "Survivor benefit" means an entitlement to a future amount payable to a survivor that is not included in the definition of a survivor annuity.

Subd. 2. [ENTITLEMENT; ELIGIBILITY.] Notwithstanding any law to the contrary governing a covered retirement plan, a person who is the survivor of a deceased member of a covered retirement plan may receive a combined service survivor benefit from each covered retirement plan in which the deceased member had credit for at least six months of allowable service if the deceased member:

(1) had credit for sufficient allowable service in any combination of covered retirement plans to meet any minimum allowable service credit requirement of the covered retirement fund for qualification for a survivor

benefit or annuity;

(2) had credit for at least six months of allowable service with the most recent covered retirement plan before the date of death and was an active member of that covered retirement plan on the date of death; and

(3) was not receiving a retirement annuity from any covered retirement plan on the date of death.

Subd. 3. [COMBINED SERVICE SURVIVOR BENEFIT COMPUTATION.] (a) The combined service survivor annuity or survivor benefit from each covered retirement plan must be based on the allowable service in each covered retirement plan, except as provided by paragraphs (b) to (f).

(b) The survivor annuity or survivor benefit must be governed by the law in effect for each covered retirement plan on the date of death of the deceased member.

(c) All plans must base the survivor annuity or survivor benefit on the same average salary.

(d) If the method of the covered retirement plan used to compute a survivor benefit or annuity varies based on the length of allowable service credit, the benefit accrual formula percentages used by the plan must recognize the allowable service credit in the plan as a continuation of any previous allowable service credit with other covered retirement plans.

(e) If the covered retirement plan is a defined benefit or formula plan and the method used to compute a survivor benefit or annuity does not vary based on the length of allowable service credit, the portion of the specified benefit or annuity amount from the plan must bear the same proportion to the total specified benefit or annuity amount as the allowable service credit in that plan bears to the total allowable service credit in all covered retirement plans. If the covered retirement plan is a defined contribution or nonformula plan, the survivor benefit amount for allowable service under the plan is not affected, but the service and covered salary under the plan must be used in calculations by other covered retirement plans.

(f) A period for which a person has allowable service credit in more than one covered retirement plan must be used only once in determining the total allowable service credit for calculating the combined service survivor annuity or survivor benefit. A period of duplicated service credit must be handled as provided in section 356.30, subdivision 1, clause (3), items (i) and (j).

Subd. 4. [COVERED RETIREMENT PLANS.] This section applies to the following retirement plans:

- (1) legislators retirement plan, established by chapter 3A;
- (2) state employees retirement fund, established by chapter 352;
- (3) correctional employees retirement plan, established by chapter 352;
- (4) state patrol retirement fund, established by chapter 352B;
- (5) elective state officers retirement plan, established by chapter 352C;
- (6) unclassified employees retirement plan, established by chapter 352D;
- (7) public employees retirement association, established by chapter 353;

(8) *public employees police and fire fund, established by chapter 353;*

(9) *teachers retirement fund, established by chapter 354;*

(10) *Duluth teachers retirement fund association, established by chapter 354A;*

(11) *Minneapolis teachers retirement fund association, established by chapter 354A;*

(12) *St. Paul teachers retirement fund association, established by chapter 354A; and*

(13) *Minneapolis employees retirement fund, established by chapter 422A.*

Sec. 3. [REPEALER.]

Minnesota Statutes 1986, section 356.301, is repealed.

Sec. 4. [EFFECTIVE DATE.]

Section 1 is effective the day following final enactment and applies to any active member of a covered retirement plan whose applicable disability is determined to have begun on or after that date. Section 2 is effective the day following final enactment and applies to any person who became a survivor on or after June 15, 1986. Section 3 is effective the day following final enactment."

Delete the title and insert:

"A bill for an act relating to retirement; various public pension plans; implementing various administrative changes; making private certain membership data; conforming mandatory retirement provisions for public employees to the federal Age Discrimination in Employment Amendments of 1986; clarifying the obligation of the state auditor to undertake periodic public pension plan audits; establishing combined service disability and survivor benefits; amending Minnesota Statutes 1986, sections 13.43, by adding a subdivision; 43A.34, subdivisions 1 and 4; 136.81, subdivision 3; 136.82, subdivision 1; 181.81, subdivision 1; 181.811; 352.12, subdivision 6; 352.96, subdivision 1, and by adding a subdivision; 352D.015, subdivision 5; 353.01, subdivisions 2b and 20; 353.03, subdivision 3; 353.27, subdivisions 4, 10, and 12; 353.28, subdivision 5; 353.29, subdivision 8; 353.33, by adding a subdivision; 353.34, by adding a subdivision; 353.36, subdivision 2; 353.64, subdivisions 1 and 2; 353.656, subdivision 6, and by adding a subdivision; 353.657; 354.05, subdivision 35, and by adding a subdivision; 354.06, subdivision 1; 354.07, subdivision 3; 354.094, subdivision 1; 354.44, subdivisions 1a and 5; 354.46, subdivision 5; 354.48, subdivision 7; 354.51, subdivision 5; 354.55, subdivision 11; 354.62, subdivision 5, and by adding a subdivision; 354A.021, by adding a subdivision; 354A.21; 422A.09, subdivision 3; and 423.076; proposing coding for new law in Minnesota Statutes, chapters 13 and 356; repealing Minnesota Statutes 1986, sections 43A.34, subdivision 2; 125.12, subdivision 5; 353.64, subdivision 6; 356.301; and 473.419."

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

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

S.F. No. 1277: A bill for an act relating to taxes; providing for the assessment of certain flight property; amending Minnesota Statutes 1986, sections 270.071, by adding a subdivision; and 270.074, subdivision 3.

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

Pages 1 and 2, delete section 2 and insert:

"Sec. 2. Minnesota Statutes 1986, section 270.074, subdivision 3, is amended to read:

Subd. 3. (a) The flight property of every airline company shall be assessed at ~~33-1/3~~ 70 percent of the value thereof apportioned to this state under subdivision 1, *except that quiet aircraft shall be assessed at 40 percent of the value determined under subdivision 1. Quiet aircraft shall include turboprops and aircraft defined as stage III by the Federal Aeronautics Administration. If, in the opinion of the commissioner, other aircraft may be qualified as quiet aircraft, the commissioner may adopt rules providing additional qualifications.*

(b) The flight property of an airline company that owns or leases aircraft the majority of which are turbine powered propeller driven, and which provides, during six months or more of the year that taxes are levied, scheduled passenger service to three or more airports inside or outside of this state that serve small or medium sized communities, shall be assessed at 50 percent of the assessment percentage otherwise set by paragraph (a).

Sec. 3. Minnesota Statutes 1986, section 270.075, subdivision 1, is amended to read:

Subdivision 1. The commissioner shall determine the rate of tax to be levied and collected against the assessed valuation as determined pursuant to section 270.074, subdivision 2, ~~which shall be the average rate of taxes, general, municipal, and local, levied throughout the state for the preceding year. The levy shall be completed on or before the first Monday in October of each year to generate revenues of \$6,719,000 from taxes levied in assessment year 1987 and payable in 1988 and revenues of \$7,122,000 from taxes levied in 1988 and payable in 1989. Thereafter the legislature shall annually establish the amount of revenue to be generated from a tax on flight property."~~

Page 2, line 4, delete "and 2" and insert "to 3"

Renumber the sections in sequence

Amend the title as follows:

Page 1, line 3, after the semicolon, insert "establishing tax rates on flight property;"

Page 1, line 4, delete "and"

Page 1, line 5, after "3" insert "and 270.075, subdivision 1"

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

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

H.F. No. 217 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.
217	1188				

Pursuant to Rule 49, the Committee on Rules and Administration recommends that H.F. No. 217 be amended as follows:

Delete all the language after the enacting clause of H.F. No. 217 and insert the language after the enacting clause of S.F. No. 1188, the first engrossment; further, delete the title of H.F. No. 217 and insert the title of S.F. No. 1188, the first engrossment.

And when so amended H.F. No. 217 will be identical to S.F. No. 1188, and further recommends that H.F. No. 217 be given its second reading and substituted for S.F. No. 1188, 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. 638 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.
638	550				

Pursuant to Rule 49, the Committee on Rules and Administration recommends that H.F. No. 638 be amended as follows:

Delete all the language after the enacting clause of H.F. No. 638 and insert the language after the enacting clause of S.F. No. 550, the first engrossment; further, delete the title of H.F. No. 638 and insert the title of S.F. No. 550, the first engrossment.

And when so amended H.F. No. 638 will be identical to S.F. No. 550, and further recommends that H.F. No. 638 be given its second reading and substituted for S.F. No. 550, 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. 830 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.
830	206				

Pursuant to Rule 49, the Committee on Rules and Administration recommends that H.F. No. 830 be amended as follows:

Delete all the language after the enacting clause of H.F. No. 830 and insert the language after the enacting clause of S.F. No. 206, the first engrossment; further, delete the title of H.F. No. 830 and insert the title of S.F. No. 206, the first engrossment.

And when so amended H.F. No. 830 will be identical to S.F. No. 206, and further recommends that H.F. No. 830 be given its second reading and substituted for S.F. No. 206, 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. 1141 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.
1141	1087				

Pursuant to Rule 49, the Committee on Rules and Administration recommends that H.F. No. 1141 be amended as follows:

Delete all the language after the enacting clause of H.F. No. 1141 and insert the language after the enacting clause of S.F. No. 1087, the first engrossment; further, delete the title of H.F. No. 1141 and insert the title of S.F. No. 1087, the first engrossment.

And when so amended H.F. No. 1141 will be identical to S.F. No. 1087, and further recommends that H.F. No. 1141 be given its second reading and substituted for S.F. No. 1087, 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. Merriam from the Committee on Finance, to which was referred the following appointment as reported in the Journal for March 12, 1987:

DEPARTMENT OF FINANCE COMMISSIONER
Jay Kiedrowski

Reports the same back with the recommendation that the appointment be confirmed.

Mr. Moe, R.D. moved that the foregoing committee report be laid on the table. The motion prevailed.

Mr. Dicklich from the Committee on Public Utilities and Energy, to which was referred

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.

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

Page 1, delete lines 14 to 19 and insert:

"(b) 'Effective competition' means that a customer of a gas utility who either receives interruptible service or whose daily requirement exceeds 50,000 cubic feet maintains or plans on acquiring the capability to switch to fuel oil, propane, coal fuel, or other natural gas at comparable prices from a supplier not regulated by the commission."

Page 2, line 7, delete everything after the period and insert "A gas utility may only apply a flexible tariff to a customer that is subject to effective competition. A customer"

Page 2, line 8, delete "a class"

Page 2, line 12, delete "an alternative energy supply or service" and insert "fuel oil, propane, coal fuel, or natural gas from a supplier not regulated by the commission"

Page 2, lines 18 and 22, delete "expected foregone" and after "revenues" insert "which the utility expects to lose by implementing flexible tariffs"

Page 3, line 4, delete "FOREGONE"

Page 3, line 36, after the period, insert "Gas utilities that utilize a flexible tariff under section 1 shall be assessed for the actual cost of conducting the study not to exceed \$10,000. Each utility utilizing a flexible tariff shall be assessed for an equal share of the costs."

Page 4, delete section 3 and insert:

"Sec. 3. [APPROPRIATION.]

There is appropriated from the general fund the sum of \$10,000 to the department of public service for the purpose of conducting the study required in section 2."

Amend the title as follows:

Page 1, line 6, delete everything before the semicolon and insert "ap-

propriating money”.

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

Mr. Frank from the Committee on Economic Development and Housing, to which was referred

S.F. No. 1417: A bill for an act relating to economic development; authorizing certain entities involved in economic development to participate in secondary markets; authorizing the use of appropriated money for secondary market purposes; amending Minnesota Statutes 1986, sections 116M.04, by adding a subdivision; 116M.08, by adding a subdivision; 362A.03, by adding a subdivision; 458.192, by adding a subdivision; 458C.14, by adding a subdivision; and 462.445, subdivision 4.

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

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

S.F. No. 1253: A bill for an act relating to human services; providing training of welfare fraud prosecutors and investigators; providing staff for fraud control functions; defining amounts of assistance indirectly paid; providing for joint trials; changing the date of payment of certain periodic support to the assistance unit; regulating certain property transfers; providing for incorrect assistance amounts recovered; appropriating money; amending Minnesota Statutes 1986, sections 256.74, subdivision 1; 256.98; 256D.05; and 393.07, subdivision 10.

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

Pages 2 to 5, delete section 4

Renumber the sections in sequence

Amend the title as follows:

Page 1, lines 10 and 11, delete “256.74, subdivision 1;”

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

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

S.F. No. 1389: A bill for an act relating to appropriations; providing funding for the establishment of a community-based juvenile residential correctional facility to serve American Indian juveniles in Hennepin county.

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

Page 1, line 11, delete “in Hennepin county”

Page 1, line 14, delete “who are residents of”

Page 1, line 15, delete “Hennepin county and”

Amend the title as follows:

Page 1, line 5, delete "in Hennepin county"

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

H.F. No. 904: A bill for an act relating to human services; requiring notification to spouse of nursing home resident; amending Minnesota Statutes 1986, section 256B.48, by adding a subdivision.

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

Page 1, line 16, after "2" insert ", and section 256B.17"

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. 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.

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. 1161: A bill for an act relating to unemployment compensation; regulating administration of unemployment compensation; providing for benefits and contribution rates; amending Minnesota Statutes 1986, sections 268.04, subdivisions 2, 4, 24, and by adding subdivisions; 268.06, subdivisions 2, 3a, 8, and by adding a subdivision; 268.07, subdivisions 2, 2a, and 3; 268.071, subdivision 1; 268.08, subdivision 1; 268.10, subdivisions 1 and 2; 268.12, subdivision 8; 268.121; 268.15, subdivision 3; 268.16, subdivision 2; repealing Minnesota Statutes 1986, section 268.04, subdivisions 29 and 30.

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 268.04, subdivision 2, is amended to read:

Subd. 2. "Base period" means the period of 52 calendar weeks immediately preceding the first day of an individual's benefit year. However, if a claimant received weekly worker's compensation for temporary total disability under the provisions of chapter 176 or under a similar law of the United States for more than seven weeks within the base period, or if a claimant, whose own serious illness caused a loss of credit weeks within the base period, received compensation due to the illness from some other source or under a law of this state other than chapter 176 or under a similar law of the United States for more than seven weeks within the base period,

the claimant's base period shall be lengthened by the same number of weeks, but not to exceed 52 weeks, for which the claimant received the payments. No extended base period shall include wage credits upon which benefits were established and paid with respect to a prior valid claim first four of the last five completed calendar quarters immediately preceding the first day of an individual's benefit year; except: (a) if during the base period an individual received workers' compensation for temporary disability under chapter 176 or a similar law of the United States, or if an individual whose own serious illness caused a loss of work for which the individual received compensation due to the illness from some other source or under a law of this state other than chapter 176 or a similar law of the United States, the individual's base period shall be lengthened to the extent stated as follows:

(1) if an individual was compensated, as described above, for a loss of work of seven to 13 weeks, the original base period shall be extended to include one calendar quarter preceding the original base period; or

(2) if an individual was compensated, as described above, for a loss of work of 14 to 26 weeks, the original base period shall be extended to include two calendar quarters preceding the original base period; or

(3) if an individual was compensated, as described above, for a loss of work of 27 to 39 weeks, the original base period shall be extended to include the first three calendar quarters preceding the original base period; or

(4) if an individual was compensated, as described above, for a loss of work of 40 to 52 weeks, the original base period shall be extended to include the first four quarters preceding the original base period; or

(b) if the commissioner finds that, during the base period described above, the individual has insufficient wage credits to establish a valid claim, the individual may request a determination of validity using an alternate base period of the last four completed calendar quarters preceding the first day of an individual's benefit year. This alternate base period may be used by an individual only once during any five calendar year period to establish a valid claim.

In no instance shall the base period be extended to include more than four additional calendar quarters.

No base period, extended base period, or alternate base period under paragraph (b) shall include wage credits upon which a claim was established and benefits were paid with respect to that valid claim.

Sec. 2. Minnesota Statutes 1986, section 268.04, subdivision 4, is amended to read:

Subd. 4. "Benefit year" with respect to any individual means the period of 52 calendar weeks beginning with the first day of the first week with respect to which the individual files a valid claim for benefits. For individuals with a claim effective January 1, April 1, July 1, or October 1, the benefit year will be a period of 53 weeks beginning with the first week with respect to which the individual files a valid claim for benefits.

Sec. 3. Minnesota Statutes 1986, section 268.04, subdivision 24, is amended to read:

Subd. 24. "Valid claim" with respect to any individual means a claim

filed by an individual who has registered for work and who has earned wage credits ~~and established credit weeks~~ during the individual's base period sufficient to entitle the individual to benefits under section 268.07, subdivision 2.

Sec. 4. Minnesota Statutes 1986, section 268.04, subdivision 25, is amended to read:

Subd. 25. [WAGES.] "Wages" means all remuneration for services, including commissions and bonuses, back pay as of the date of payment, and tips and gratuities paid to an employee by a customer of an employer and accounted for by the employee to the employer, and the cash value of all remuneration in any medium other than cash, except that such term shall not include:

(a) For the purpose of determining contributions payable under section 268.06, subdivision 2, that part of the remuneration which exceeds, for each calendar year, the greater of \$7,000 or that part of the remuneration which exceeds 60 percent of the average annual wage rounded to the nearest \$100 computed in accordance with the provisions of clause (f), paid to an individual by an employer with respect to covered employment in this state, or with respect to employment under the unemployment compensation law of any other state during any calendar year paid to such individual by such covered employer or predecessor during such calendar year; provided, that if the term "wages" as contained in the Federal Unemployment Tax Act is amended to include remuneration in excess of the amount required to be paid hereunder to an individual by an employer under the federal act for any calendar year, wages for the purposes of sections 268.03 to 268.24 shall include remuneration paid in a calendar year up to an amount equal to the dollar limitation specified in the Federal Unemployment Tax Act. For the purposes of this clause, the term "employment" shall include service constituting employment under any employment security law of another state or of the federal government;

(b) The amount of any payment made to, or on behalf of, an employee under a plan or system established by an employer which makes provision for employees generally or for a class or classes of employees (including any amount paid by an employer for insurance or annuities, or into a fund, to provide for any such payment), on account of (1) retirement or (2) sickness or accident disability or (3) medical and hospitalization expenses in connection with sickness or accident disability, or (4) death, provided the employee has not the option to receive, instead of provision for such death benefit, any part of such payment, or if such death benefit is insured, any part of the premium (or contributions to premiums) paid by the employer and has not the right, under the provisions of the plan or system or policy of insurance providing for such death benefit, to assign such benefit, or to receive a cash consideration in lieu of such benefit either upon withdrawal from the plan or system providing for such benefit or upon termination of such plan or system or policy of insurance or of employment with such employer;

(c) The payment by an employer (without deduction from the remuneration of the employee) (1) of the tax imposed upon an employee under section 3101 of the federal Internal Revenue Code, or (2) of any payment required from an employee under a state unemployment compensation law, with respect to remuneration paid to an employee for domestic service in a private home of the employer or for agricultural labor;

(d) Any payments made to a former employee during the period of active military service in the armed forces of the United States by such employer, whether legally required or not;

(e) Any payment made to, or on behalf of, an employee or beneficiary (1) from or to a trust described in section 401(a) of the federal Internal Revenue Code which is exempt from tax under section 501(a) of such code at the time of such payment unless such payment is made to an employee of the trust as remuneration for services rendered as an employee and not as a beneficiary of the trust, or (2) under or to an annuity plan which, at the time of such payment is a plan described in section 403(a) of the federal Internal Revenue Code, or (3) under or to a bond purchase plan which, at the time of such payment, is a qualified bond purchase plan described in section 405(a) of the federal Internal Revenue Code;

(f) *The value of any meals and lodgings furnished by or on behalf of the employer, if at the time of such furnishings it is reasonable to believe that the employee will be able to exclude such items from income under United States Code, title 26, section 119;*

(f) (g) On or before July 1 of each year the commissioner shall determine the average annual wage paid by employers subject to sections 268.03 to 268.24 in the following manner:

(1) The sum of the total monthly employment reported for the previous calendar year shall be divided by 12 to determine the average monthly employment;

(2) The sum of the total wages reported for the previous calendar year shall be divided by the average monthly employment to determine the average annual wage.

The average annual wage determined shall be effective for the calendar year next succeeding the determination.

Sec. 5. Minnesota Statutes 1986, section 268.04, is amended by adding a subdivision to read:

Subd. 34. [CONTRIBUTION REPORT.] "Contribution report" means the summary report of wages and employment used to determine the amount of contributions due by employers on a calendar quarter basis. An auxiliary report of wages and employment broken down by business locations, when required, is part of the contribution report.

Sec. 6. Minnesota Statutes 1986, section 268.04, is amended by adding a subdivision to read:

Subd. 35. [WAGE DETAIL REPORT.] "Wage detail report" means the itemized report used to record the information required by section 268.121.

Sec. 7. Minnesota Statutes 1986, section 268.04, is amended by adding a subdivision to read:

Subd. 36. [HIGH QUARTER.] "High quarter" means the calendar quarter in an individual's base period for which the individual's total wage credits during that quarter are equal to or greater than the individual's total wage credits during any other calendar quarter in the individual's base period.

Sec. 8. Minnesota Statutes 1986, section 268.06, subdivision 2, is amended to read:

Subd. 2. [RATES.] Each employer shall pay contributions equal to two

and seven-tenths percent for each calendar year prior to 1985 and 5-4/10 percent for 1985 and each subsequent calendar year of wages paid and wages overdue and delayed beyond the usual time of payment from the employer with respect to employment occurring during each calendar year, except as may be otherwise prescribed in subdivisions 3a and 4. ~~Each employer who has an experience ratio of less than one-tenth of one percent shall pay contributions on only the first \$8,000 in wages paid and wages overdue and delayed beyond the usual time of payment to each employee with respect to employment occurring during each calendar year.~~

Sec. 9. Minnesota Statutes 1986, section 268.06, subdivision 3a, is amended to read:

Subd. 3a. [RATE FOR NEW EMPLOYERS.] Notwithstanding the provisions of subdivision 2, each employer, who becomes subject to this law, shall pay contributions at a rate:

(a) Not exceeding 2-7/10 percent, that is the higher of (1) one percent and (2) the state's three-year benefit cost rate for the 36 consecutive month period immediately preceding July 1 of each year for each employer who becomes subject to this law prior to January 1, 1984. For purposes of this clause, the state's three-year benefit cost rate shall be computed annually and shall be derived by dividing the total dollar amount of benefits paid to claimants under this law during the 36 consecutive calendar months immediately preceding July 1 of each year by the total dollar amount of wages subject to contributions under this law during the same period. The rate so determined shall be applicable for the calendar year next succeeding each computation date.

(b) Not exceeding 2-7/10 percent, that is the higher of (1) one percent and (2) the state's four-year benefit cost rate for the 48 consecutive month period immediately preceding July 1 of each year for each employer, except employers in the construction industry, as determined by the commissioner, who becomes subject to this law subsequent to December 31, 1983 and prior to January 1, 1985. For purposes of this clause, the state's four-year benefit cost rate shall be computed and derived by dividing the total dollar amount of benefits paid to claimants under this law during the 48 consecutive calendar months immediately preceding July 1, 1983 by the total dollar amount of wages subject to contributions under this law during the same period. The rate so determined shall be applicable for the calendar year 1984.

Each construction employer described above who becomes subject to chapter 268 shall pay contributions at a rate, not exceeding 7-1/2 percent, that is the higher of (1) one percent, or (2) the state's four-year benefit cost rate for construction employers for the 48 consecutive month period immediately preceding July 1, 1983. For purposes of this clause, the state's four-year benefit cost rate shall be computed and derived by dividing the total dollar amount of benefits paid to claimants of construction employers, as determined by the commissioner, during the 48 consecutive calendar months immediately preceding July 1, 1983 by the total dollar amount of wages of construction employers subject to contributions during the same period. The rate so determined shall be applicable for the calendar year 1984.

(c) Not exceeding 5-4/10 percent, that is the higher of (1) one percent and (2) the state's five-year benefit cost rate for the 60 consecutive month period immediately preceding July 1, 1984 and each year thereafter for

each employer, except employers in the construction industry, as determined by the commissioner who becomes subject to this law on January 1, 1985 and thereafter. For purposes of this clause, the state's five-year benefit cost rate shall be computed annually and shall be derived by dividing the total dollar amount of benefits paid to claimants under this law during the 60 consecutive calendar months immediately preceding July 1, 1984 and each year thereafter by the total dollar amount of wages subject to contributions under this law during the same period. The rate so determined shall be applicable for the calendar year next succeeding each computation date.

Each construction employer described above who becomes subject to this chapter shall pay contributions at a rate, not exceeding ~~7-1/2 percent~~ *the maximum contribution rate for all employers as provided under subdivision 8*, that is the higher of (1) one percent, or (2) the state's five-year benefit cost rate for construction employers for the 60 consecutive month period immediately preceding July 1, 1984 and each year thereafter. For purposes of this clause, the state's five-year benefit cost rate shall be computed annually and shall be derived by dividing the total dollar amount of benefits paid to claimants of construction employers, as determined by the commissioner, during the 60 consecutive calendar months immediately preceding July 1, 1984 and each year thereafter by the total dollar amount of wages of construction employers subject to contributions during the same period. The rate so determined shall be applicable for the calendar year next succeeding each computation date.

Sec. 10. Minnesota Statutes 1986, section 268.06, subdivision 8, is amended to read:

Subd. 8. [DETERMINATION OF CONTRIBUTION RATES.] (a) For each calendar year the commissioner shall determine the contribution rate of each employer by adding the minimum rate to the experience ratio; ~~except that if the ratio for the current calendar year increases or decreases the experience ratio for the preceding calendar year by more than one and one-half percentage points for 1982; and 2-1/2 percentage points for 1983 and each year thereafter, the increase or decrease for the current year shall be limited to one and one-half percentage points for 1982; and 2-1/2 percentage points for 1983 and each year thereafter, provided that a small business employer shall be eligible, upon application, for a reduction in the limitation to 1-1/2 percentage points for 1983 and each year thereafter.~~ "Small business employer" for the purpose of this subdivision means an employer with an annual covered payroll of \$250,000 or less, or fewer than 20 employees in three of the four quarters ending June 30, of the previous calendar year.

(b) The minimum rate for all employers *except as provided in paragraph (c)* shall be one percent if the amount in the unemployment compensation fund is less than ~~\$80,000,000~~ \$250,000,000 on June 30 of the preceding calendar year; or nine-tenths of one percent if the fund is more than ~~\$80,000,000~~ \$250,000,000 but less than ~~\$90,000,000~~ \$260,000,000; or eight-tenths of one percent if the fund is more than ~~\$90,000,000~~ \$260,000,000 but less than ~~\$110,000,000~~ \$270,000,000; or seven-tenths of one percent if the fund is more than ~~\$110,000,000~~ \$270,000,000 but less than ~~\$130,000,000~~ \$280,000,000; or six-tenths of one percent if the fund is more than ~~\$130,000,000~~ \$280,000,000 but less than ~~\$150,000,000~~ \$290,000,000; or five-tenths of one percent if the fund is more than ~~\$150,000,000~~ \$290,000,000 but less than ~~\$170,000,000~~ \$300,000,000; or three-tenths of one percent if the fund is more than ~~\$170,000,000~~

\$300,000,000 but less than \$200,000,000 \$310,000,000; or one-tenth of one percent if the fund is \$200,000,000 \$310,000,000 or more; provided that no employer shall have a contribution rate of more than 7.5 percent.

(c) The minimum rate for all employers that have an experience ratio of less than one-tenth of one percent shall be .25 percent less than the minimum rate under paragraph (b) for 1988, and for each year thereafter, provided that no rate can be less than one-tenth of one percent.

(d) The maximum rate for all employers shall be 8.5 percent if the amount in the unemployment compensation fund is less than \$200,000,000 as of June 30 of the preceding year or 7.5 percent if the amount in the unemployment compensation fund is more than \$200,000,000 as of June 30 of the preceding year.

(e) For the purposes of this section the unemployment compensation fund shall not include any moneys advanced from the Federal Unemployment Account in the unemployment trust fund in accordance with Title XII of the Social Security Act, as amended. No employer first assigned an experience ratio in accordance with subdivision 6, shall have a contribution rate increased or decreased by more than one and one-half percentage points for 1982; and 2-1/2 percentage points for 1983 and each year thereafter over the contribution rate assigned for the preceding calendar year in accordance with subdivision 3a; provided that a small business employer shall be eligible, upon application, for a reduction in the limitation to 1-1/2 percentage points for 1983 and each year thereafter.

Sec. 11. Minnesota Statutes 1986, section 268.06, is amended by adding a subdivision to read:

Subd. 8a. [SOLVENCY ASSESSMENT.] If the fund balance is less than \$50,000,000 on April 1 of any year, a solvency assessment will be in effect for the following calendar year. Each employer, except those making payments in lieu of contributions under subdivisions 25, 26, 27, and 28, shall pay a quarterly solvency assessment of ten percent multiplied by the contributions paid or due and payable for each calendar quarter in that year. Quarterly contributions and the solvency assessment payments shall be combined and will be computed notwithstanding the maximum rate established in subdivision 3a or 8, by multiplying the quarterly taxable payroll by the assigned contribution rate multiplied by 1.10.

Sec. 12. Minnesota Statutes 1986, section 268.07, subdivision 2, is amended to read:

Subd. 2. [WEEKLY BENEFIT AMOUNT AND DURATION.] If the commissioner finds that an individual has earned 15, or more, credit weeks within the base period of employment in insured work with one or more employers, benefits shall be payable to such individual during the individual's benefit year as follows:

(1) Weekly benefit amount shall be equal to 60 percent of the first \$85, 40 percent of the next \$85 and 50 percent of the remainder of the average weekly wage of such individual. The amount so computed if not a whole dollar shall be rounded down to the next lower dollar amount. (a) To establish a benefit year for unemployment insurance benefits, effective after January 1, 1988, and thereafter, an individual must have:

(1) wage credits in two or more calendar quarters of the individual's base period;

(2) minimum total base period wage credits equal to the high quarter wages multiplied by 1.25; and

(3) high quarter wage credits of not less than \$1,000.

(b) If the commissioner finds that an individual has sufficient wages within the base period to establish a valid claim, the weekly benefit amount payable to the individual during the individual's benefit year shall be equal to 1/26 of the individual's high quarter wage credits, rounded to the next lower whole dollar.

(c) Notwithstanding paragraph (b), the maximum weekly benefit amount of claims for benefits which establish a benefit year subsequent to July 1, 1979 shall be 66-2/3 percent of the average weekly wage, except as provided in clause (d) as determined under this paragraph.

On or before June 30 of each year the commissioner shall determine the average weekly wage paid by employers subject to sections 268.03 to 268.24 in the following manner:

(a) (1) The sum of the total monthly employment reported for the previous calendar year shall be divided by 12 to determine the average monthly employment.

(b) (2) The sum of the total wages reported for the previous calendar year shall be divided by the average monthly employment to determine the average annual wage.

(c) (3) The average annual wage shall be divided by 52 to determine the average weekly wage.

The maximum weekly benefit amount as so determined computed to the nearest whole dollar shall apply to claims for benefits which establish a benefit year which begins subsequent to June 30 of each year.

(d) Notwithstanding paragraph (c), the maximum weekly benefit amount for claims for benefits which establish a benefit year subsequent to June 30, 1982 1987, and prior to July 1, 1983 1990, shall be \$184 \$234.

The maximum weekly benefit amount for claims for benefits which establish a benefit year subsequent to June 30, 1983 1990, and prior to July 1, 1984 1991, shall be \$194 \$254.

The maximum weekly benefit amount for claims for benefits which establish a benefit year subsequent to June 30, 1984, and prior to July 1, 1985, shall be \$198.

(2) An individual's maximum amount of regular benefits payable in a benefit year shall not exceed the lesser of (a) 26 times the individual's weekly benefit amount or (b) 70 percent of the number of credit weeks earned by such an individual computed to the nearest whole week times the individual's weekly benefit amount.

(e) Any eligible individual shall be entitled during any benefit year to a total amount of benefits equal to one-third of the individual's total base period wage credits rounded to the next lower dollar, not to exceed 26 times the individual's weekly benefit amount.

(3) (f) Each eligible individual who is unemployed in any week shall be paid with respect to such week a benefit in an amount equal to the individual's weekly benefit amount less that part of the individual's earnings, including holiday pay, payable to the individual with respect to such week

which is in excess of \$25 or \$200 for earnings from service in the national guard or a United States military reserve unit. Jury duty pay is not considered as earnings and shall not be deducted from benefits paid. Such benefit, if not a whole dollar amount shall be rounded down to the next lower dollar amount.

(4) The provisions of clauses (1) and (2) Except for paragraph (d), this section shall apply to claims for benefits which establish a benefit year subsequent to June 30, 1983 after the effective date. Paragraph (d) shall apply to claims for benefits which establish a benefit year after the effective date of paragraph (d).

Sec. 13. Minnesota Statutes 1986, section 268.07, subdivision 2a, is amended to read:

Subd. 2a. [EXCEPTION.] Notwithstanding the provisions of subdivision 2, if the commissioner finds that an individual has earned ~~credit weeks wage credits~~ in seasonal employment, benefits shall be payable only if the commissioner finds that the individual has earned ~~15 credit weeks wage credits equal to or in excess of 30 times the individual's weekly benefit amount~~, in employment which is not seasonal, in addition to any ~~credit weeks wage credits~~ in seasonal employment. For the purposes of this subdivision, "seasonal employment" means employment with a single employer in the recreation or tourist industry which is available with the employer for 15 consecutive weeks or less each calendar year.

Sec. 14. Minnesota Statutes 1986, section 268.07, subdivision 3, is amended to read:

Subd. 3. [WHEN WAGE CREDITS ARE NOT AVAILABLE.] (1) ~~No individual may receive benefits in a benefit year unless, subsequent to the beginning of the next preceding benefit year during which benefits were received, the individual performed service in insured work as defined in section 268.04, subdivision 17, and earned remuneration for the service in an amount equal to not less than the minimum wage credits required to qualify for benefits To establish a second benefit year following the expiration of an immediately preceding benefit year, an individual must have sufficient wage credits to establish a claim under the provisions of subdivision 2 and must have performed services after the establishment of the expired benefit year. The services performed must have been in insured work and the wage credits from the services must equal not less than ten times the weekly benefit amount of the second benefit year.~~

(2) No employer who provided 90 percent or more of the wage credits in a claimant's base period shall be charged for benefits based upon earnings of the claimant during a subsequent base period unless the employer has employed the claimant in any part of the subsequent base period.

(3) Wages paid by an employing unit may not be used for benefit purposes by any individual who (a) individually or jointly with a spouse, parent or child owns or controls directly or indirectly 25 percent or more interest in the employing unit; or (b) is the spouse, parent or minor child of any individual who owns or controls directly or indirectly 25 percent or more interest in the employing unit; and (c) is not permanently separated from employment.

This clause is effective when the individual has been paid four times the individual's weekly benefit amount in the current benefit year.

(4) Wages paid in seasonal employment, as defined in subdivision 2a, are not available for benefit purposes during weeks in which there is no seasonal employment available with the employer.

(5) *No employer shall be charged for benefits if the employer is a base period employer on a second claim solely because of the transition from a base period consisting of the 52-week period preceding the claim date to a base period as defined in section 268.04, subdivision 2.*

Sec. 15. Minnesota Statutes 1986, section 268.071, subdivision 1, is amended to read:

Subdivision 1. [DEFINITIONS.] As used in this section, unless the context clearly requires otherwise:

(1) [EXTENDED BENEFIT PERIOD.] "Extended benefit period" means a period which

(a) Begins with the third week after a week for which there is a state "on" indicator; and

(b) Ends with either of the following weeks, whichever occurs later: The third week after the first week for which there is a state "off" indicator; or the 13th consecutive week of the period;

Provided, that no extended benefit period may begin before the 14th week following the end of a prior extended benefit period which was in effect with respect to this state.

(2) [STATE "ON" INDICATOR.] There is a "state 'on' indicator" for this state for a week if the commissioner determines, in accordance with the regulations of the United States Secretary of Labor, that for the period consisting of such week and the immediately preceding 12 weeks, the rate of insured unemployment (not seasonally adjusted) under this law

(a) equaled or exceeded 120 percent of the average of such rates for the corresponding 13-week period ending in each of the preceding two calendar years, and

(b) equaled or exceeded five percent.

The determination of whether there has been a state "on" indicator beginning any extended benefit period may be made as provided in clauses (a) and (b) above or a "state 'on' indicator" shall exist if the rate described in clause (b) equaled or exceeded six percent irrespective of whether the percentage requirement provided by clause (a) is met or exceeded.

(3) [STATE "OFF" INDICATOR.] There is a "state 'off' indicator" for this state for a week if, for the period consisting of such week and the immediately preceding 12 weeks, the rate of insured unemployment is less than six percent and the requirements for a "state 'on' indicator" under clause (2) of this subdivision are not satisfied.

(4) [RATE OF INSURED UNEMPLOYMENT.] "Rate of insured unemployment," for purposes of clauses (2) and (3), means the percentage derived by dividing the average weekly number of individuals filing claims for regular benefits in this state for weeks of unemployment with respect to the most recent 13 consecutive week period, as determined by the commissioner on the basis of the commissioner's reports to the United States secretary of labor, by the average monthly employment covered under this law for the first four of the most recent six completed calendar quarters

ending before the end of such 13 week period.

(5) [REGULAR BENEFITS.] "Regular benefits" means benefits payable to an individual under this law or under any other state law (including benefits payable to federal civilian employees and to ex-servicemen pursuant to United States Code, title 5, chapter 85) other than extended benefits and additional benefits.

(6) [EXTENDED BENEFITS.] "Extended benefits" means benefits (including benefits payable to federal civilian employees and to ex-servicemen pursuant to United States Code, title 5, chapter 85) payable to an individual under the provisions of this section for weeks of unemployment in the individual's eligibility period.

(7) [ADDITIONAL BENEFITS.] "Additional benefits" means benefits payable to exhaustees by reason of conditions of high unemployment or by reason of other special factors under the provisions of any state law.

(8) [ELIGIBILITY PERIOD.] "Eligibility period" of an individual means the period consisting of the weeks in the individual's benefit year which begin in an extended benefit period and, if the benefit year ends within such extended benefit period, any weeks thereafter which begin in such period.

(9) [EXHAUSTEE.] "Exhaustee" means an individual who, with respect to any week of unemployment in the individual's eligibility period:

(a) Has received, prior to such week, all of the regular benefits that were available under this law or any other state law (including dependents' allowances and benefits payable to federal civilian employees and ex-servicemen under United States Code, title 5, chapter 85) in the individual's current benefit year that includes such week;

Provided, that, for the purposes of this paragraph, an individual shall be deemed to have received all of the regular benefits that were available to the individual although as a result of a pending appeal with respect to wage credits ~~or credit weeks~~ that were not considered in the original monetary determination in the individual's benefit year, the individual may subsequently be determined to be entitled to added regular benefits; or

(b) The individual's benefit year having expired prior to such week, has no, or insufficient, wages and/or employment on the basis of which the individual could establish a new benefit year that would include such week or having established a benefit year that includes such week, the individual is precluded from receiving regular compensation by reason of: (i) a state law provision which meets the requirements of section 3304 (a) (7) of the Internal Revenue Code of 1954, or (ii) a disqualification determination which canceled wage credits or totally reduced benefit rights, or (iii) benefits are not payable by reason of a seasonal limitation in a state unemployment insurance law; and

(c) Has no right to unemployment benefits or allowances, as the case may be, under the railroad unemployment insurance act, the trade expansion act of 1962, the automotive products act of 1965 and such other federal laws as are specified in regulations issued by the United States Secretary of Labor; and has not received and is not seeking unemployment benefits under the unemployment compensation law of Canada; but if the individual is seeking such benefits and the appropriate agency finally determines that the individual is not entitled to benefits under such law the individual is

considered an exhaustee.

(10) [STATE LAW.] "State law" means the unemployment insurance law of any state, approved by the United States secretary of labor under section 3304 of the Internal Revenue Code of 1954.

Sec. 16. [268.073] [ADDITIONAL UNEMPLOYMENT COMPENSATION BENEFITS.]

Subdivision 1. [ADDITIONAL BENEFITS; WHEN AVAILABLE.] Additional unemployment compensation benefits are authorized under this section only if the commissioner determines that:

(1) an employer has reduced operations at a facility employing 100 or more individuals for at least six months during the preceding year resulting in the reduction of at least 50 percent of the employer's work force and the lay-off of at least 50 employees at that facility;

(2) the employer does not intend to resume operations which would lead to the reemployment of those employees at any time in the future; and

(3) the unemployment rate for the county in which the facility is located was ten percent during the month of the reduction or any of the three months preceding or succeeding the reduction.

Subd. 2. [PAYMENT OF BENEFITS.] All benefits payable under this section are payable from the fund.

Subd. 3. [ELIGIBILITY CONDITIONS.] An individual is eligible to receive additional benefits under this section for any week during the individual's benefit year if the commissioner finds that:

(1) the individual's unemployment is the result of a reduction in operations as provided under subdivision 1;

(2) the individual is unemployed and meets the eligibility requirements for the receipt of unemployment benefits under section 268.08;

(3) the individual is not subject to a disqualification for benefits under section 268.09; for the purpose of this subdivision, the disqualifying conditions set forth in section 268.09, and the requalifying requirements thereunder, apply to the receipt of additional benefits under this section;

(4) the individual has exhausted all rights to regular benefits payable under section 268.07, is not entitled to receive extended benefits under section 268.071, and is not entitled to receive unemployment compensation benefits under any other state or federal law for the week in which the individual is claiming additional benefits;

(5) the individual has made a claim for additional benefits with respect to any week the individual is claiming benefits in accordance with the regulations as the commissioner may prescribe with respect to claims for regular benefits; and

(6) the individual has worked at least 26 weeks during the individual's base period in employment with an employer for whom the commissioner has determined there was a reduction in operations under subdivision 1.

Subd. 4. [WEEKLY BENEFIT AMOUNT.] A claimant's weekly benefit amount under this section shall be the same as the individual's weekly benefit amount payable during the individual's current benefit year under section 268.08.

Subd. 5. [MAXIMUM BENEFITS PAYABLE.] A claimant's maximum amount of additional benefits payable in the individual's benefit year shall be six times the individual's weekly benefit amount. Unemployment compensation benefits paid to an individual under any state or federal law other than regular benefits payable under section 268.07 shall be deducted from that individual's maximum amount of additional benefits.

Subd. 6. [RETROACTIVITY.] The additional benefits provided under this section are payable to any claimant who meets the eligibility conditions under subdivision 3 whose unemployment occurred on July 1, 1985, or thereafter, provided the claimant has filed a claim for additional benefits which is effective January 1, 1987, or thereafter.

Sec. 17. Minnesota Statutes 1986, section 268.08, subdivision 1, is amended to read:

Subdivision 1. [ELIGIBILITY CONDITIONS.] An individual shall be eligible to receive benefits with respect to any week of unemployment only if the commissioner finds that the individual:

(1) has registered for work at and thereafter has continued to report to an employment office, or agent of the office, in accordance with rules the commissioner may adopt; except that the commissioner may by rule waive or alter either or both of the requirements of this clause as to types of cases or situations with respect to which the commissioner finds that compliance with the requirements would be oppressive or would be inconsistent with the purposes of sections 268.03 to 268.24;

(2) has made a claim for benefits in accordance with rules as the commissioner may adopt;

(3) was able to work and was available for work, and was actively seeking work. The individual's weekly benefit amount shall be reduced one-fifth for each day the individual is unable to work or is unavailable for work. Benefits shall not be denied by application of this clause to an individual who is in training with the approval of the commissioner or in training approved pursuant to section 236 of the Trade Act of 1974, as amended.

An individual is deemed unavailable for work with respect to any week which occurs in a period when the individual is a full-time student in attendance at, or on vacation from an established school, college or university unless a majority of the ~~credit weeks~~ wage credit earned in the base period were for services performed during weeks in which the student was attending school as a full-time student.

An individual serving as a juror shall be considered as available for work and actively seeking work on each day the individual is on jury duty; and

(4) has been unemployed for a waiting period of one week during which the individual is otherwise eligible for benefits under sections 268.03 to 268.24. However, payment for the waiting week shall be made to the individual after the individual has qualified for and been paid benefits for four weeks of unemployment in a benefit year which period of unemployment is terminated because of the individual's return to employment. No individual is required to serve a waiting period of more than one week within the one-year period subsequent to filing a valid claim and commencing with the week within which the valid claim was filed.

Sec. 18. Minnesota Statutes 1986, section 268.10, subdivision 1, is amended to read:

Subdivision 1. [FILING.] (a) Claims for benefits shall be made in accordance with such rules as the commissioner may prescribe. Each employer shall post and maintain printed statements of such rules in places readily accessible to individuals in the employer's service and shall make available to each such individual at the time of becoming unemployed, a printed statement of such rules. Such printed statements shall be supplied by the commissioner to each employer without cost to the employer.

(1) (b) Any employer upon separation of an employee from employment for any reason which may result in disqualification for benefits under section 268.09, shall furnish to such employee a separation notice which shall provide the employer's name, address, and employer account number as registered with the department, the employee's name and social security account number, the inclusive dates of employment, and the reason for the separation. A copy of such separation notice shall be filed with the commissioner within seven days of such separation. The commissioner shall require each individual filing a claim for benefits to establish a benefit year to furnish the reason for separation from all employers in the individual's base period.

(2) Upon the filing, by an individual, of a claim for benefits, the commissioner shall give notice to all such base period employers of the filing of such claim and request each such base period employer, within seven days after the mailing of such notice, to furnish the following information:

(a) The total wage credits earned in the base period;

(b) The number of credit weeks which end within the base period;

(c) The week ending dates for each calendar week within the base period in which the individual earned less than the amount required to make a credit week and the amount of earnings in each such week;

(d) The reason for the separation or separations of such individual from the employ of the employer in the base period; and

(e) Such employer's protest, if any, relating to the ineligibility or disqualification of such individual.

(3) If any base period employer, after the notice of filing of a claim and the request for wage and separation information has been duly mailed to the employer's last known address, fails to file information as provided by items (a) through (e) of clause 2 of this subdivision within seven days, the commissioner shall:

(a) Determine the validity of an individual's claim based on the claimant's statements or any other available information. An employer shall be liable for a late filing fee of not less than \$5 nor more than \$25, as the commissioner may determine, to be paid to the department of jobs and training and credited to the contingent fund if the employer has failed without good cause to submit the wage and separation information as required in clause 2 of this subdivision within seven days after the request has been duly mailed to the employer's last known address.

(c) For the purpose of complying with section 268.04, subdivision 2, the commissioner may require all base period employers to provide such information as the commissioner may prescribe, including, but not limited to, wages paid during any part of the base period, whether or not such information was previously provided.

(d) Upon establishment of a benefit year, the commissioner shall give notice to the last employer for whom the individual worked and all base period employers. The employer so notified shall have seven days after the mailing of the notice to file a protest to monetary entitlement or a protest raising an issue of ineligibility or disqualification.

(e) If, upon review of the wage information on file with the department, it is found that an employer failed to provide wage information for the claimant, the commissioner shall accept a claimant certification as to the wage credits earned, based upon the claimant's records, and issue a monetary determination of validity certification. This determination may be modified based upon corrected information subsequently received from the employer or other sources. The employer who failed to report the individual's wages or filed an erroneous report may be penalized in accordance with section 268.16 or 268.18. In the absence of fraud, if a redetermination of validity of claim based on an employer's late corrected or erroneous report subsequently cancels or reduces the amount of benefits to which a claimant was entitled under the initial determination, the claimant shall not be required to make repayment to the fund of any benefits paid prior to such redetermination; and

(b) (f) The commissioner shall determine any issue of ~~disqualification~~ raised by ~~clause (1)~~ under paragraph (d) or by an employer's late report. If an employer fails to file a separation notice within the time limits prescribed in ~~clause (1)~~ paragraph (b), any relief from benefit charges provided by section 268.09, subdivision 1, clause (4), shall apply to weeks of unemployment beginning after the filing of the late report or protest.

Sec. 19. Minnesota Statutes 1986, section 268.10, subdivision 2, is amended to read:

Subd. 2. [EXAMINATION OF CLAIMS; DETERMINATION; APPEAL.] (1) An official, designated by the commissioner, shall promptly examine each claim for benefits filed to establish a benefit year pursuant to this section, and, on the basis of the facts found, shall determine whether or not such claims are valid, and if valid, the weekly benefit amount payable, the maximum benefit amount payable during the benefit year, and the date the benefit year terminates, and this determination shall be known as the determination of validity. Notice of the determination of validity or any redetermination as provided for in clause (4) shall be promptly given the claimant and all other interested parties. ~~If within the time limits for filing a protest an employer notifies the department that an individual's weekly benefit amount as determined under section 268.07 exceeds the individual's weekly wages earned with the employer, the individual's weekly benefit amount shall be the lesser of (1) the weekly benefit amount as determined under section 268.07, or (2) the weekly benefit amount which is 50 percent of the quotient derived by dividing the total wage credits earned in the individual's base period credit weeks from all employers in insured work by the number of base period credit weeks. If within the time specified for the filing of wage and separation information a protest as provided in subdivision 1, clause (2), the employer makes an allegation of disqualification or raises an issue of the chargeability to the employer's account of benefits that may be paid on such claim, if the claim is valid, the issue thereby raised shall be promptly determined by said official and a notification of the determination delivered or mailed to the claimant and the employer. If an initial determination or an appeal tribunal decision or the commissioner's decision awards benefits, the benefits shall be paid promptly~~

regardless of the pendency of any appeal period or any appeal or other proceeding which may thereafter be taken. Except as provided in clause (6), if an appeal tribunal decision modifies or reverses an initial determination awarding benefits, or if a commissioner's decision modifies or reverses an appeal decision awarding benefits, any benefits paid under the award of such initial determination or appeal tribunal decision shall be deemed erroneous payments.

(2) At any time within 24 months from the date of the filing of a valid claim for benefits by an individual, an official of the department or any interested party or parties raises an issue of claimant's eligibility for benefits for any week or weeks in accordance with the requirements of the provisions of sections 268.03 to 268.24 or any official of the department or any interested party or parties or benefit year employer raises an issue of disqualification in accordance with the rules of the commissioner, a determination shall be made thereon and a written notice thereof shall be given to the claimant and such other interested party or parties or benefit year employer. A determination issued under this clause which denies benefits for weeks for which the claimant has previously been paid benefits is an overpayment of those benefits subject to section 268.18.

(3) A determination issued pursuant to clauses (1) and (2) shall be final unless an appeal therefrom is filed by a claimant or employer within 15 days after the mailing of the notice of the determination to the last known address or personal delivery of the notice. Every notice of determination shall contain a prominent statement indicating in clear language the method of appealing the determination, the time within which such an appeal must be made, and the consequences of not appealing the determination. A timely appeal from a determination of validity in which the issue is whether an employing unit is an employer within the meaning of this chapter or whether services performed for an employer constitute employment within the meaning of this chapter shall be subject to the provisions of section 268.12, subdivision 13.

(4) At any time within 24 months from the date of the filing of a valid claim for benefits by an individual, the commissioner on the commissioner's own motion may reconsider a determination of validity made thereon and make a redetermination thereof on finding that an error in computation or identity or the crediting of wage credits has occurred in connection therewith or if the determination was made as a result of a nondisclosure or misrepresentation of a material fact. A determination or redetermination issued under this clause which denies benefits for weeks for which the claimant has previously been paid benefits is an overpayment of those benefits subject to section 268.18.

(5) However, the commissioner may refer any disputed claims directly to a referee for hearing and determination in accordance with the procedure outlined in subdivision 3 and the effect and status of such determination in such a case shall be the same as though the matter had been determined upon an appeal to the tribunal from an initial determination.

(6) If a referee's decision affirms an initial determination awarding benefits or the commissioner affirms an appeal tribunal decision awarding benefits, the decision, if finally reversed, shall not result in a disqualification and benefits paid shall neither be deemed overpaid nor shall they be considered in determining any individual employer's future contribution rate under section 268.06.

Sec. 20. Minnesota Statutes 1986, section 268.12, subdivision 8, is amended to read:

Subd. 8. [RECORDS; REPORTS.] (1) Each employing unit shall keep true and accurate work records for such periods of time and containing such information as the commissioner may prescribe. Such records shall be open to inspection, audit, and verification, and be subject to being copied by any authorized representative of the commissioner at any reasonable time and as often as may be necessary. The commissioner, appeal referee, or any other duly authorized representative of the commissioner, may require from any employing unit any sworn or unsworn reports, with respect to persons employed by it, which the commissioner, appeal referee, or any other duly authorized representative of the commissioner deems necessary for the effective administration of sections 268.03 to 268.24, ~~provided that quarterly contribution and wage report forms shall include the employee's name, social security number, and total wages paid to the employee.~~

(2) The commissioner may cause to be made such summaries, compilations, photographs, duplications, or reproductions of any records, reports, or transcripts thereof as the commissioner may deem advisable for the effective and economical preservation of the information contained therein, and such summaries, compilations, photographs, duplications or reproductions, duly authenticated, shall be admissible in any proceeding under sections 268.03 to 268.24, if the original record or records would have been admissible therein. Notwithstanding any restrictions contained in section 16B.50, except restrictions as to quantity, the commissioner is hereby authorized to duplicate, on equipment furnished by the federal government or purchased with funds furnished for that purpose by the federal government, records, reports, summaries, compilations, instructions, determinations, or any other written matter pertaining to the administration of the Minnesota economic security law.

(3) Notwithstanding any inconsistent provisions elsewhere, the commissioner may provide for the destruction or disposition of any records, reports, transcripts, or reproductions thereof, or other papers in the commissioner's custody, which are more than two years old, the preservation of which is no longer necessary for the establishment of contribution liability or benefit rights or for any purpose necessary to the proper administration of sections 268.03 to 268.24, including any required audit thereof, provided, that the commissioner may provide for the destruction or disposition of any record, report, or transcript, or other paper in the commissioner's custody which has been photographed, duplicated, or reproduced in the manner provided in clause (2).

(4) Notwithstanding the provisions of the Minnesota State Archives Act the commissioner shall with the approval of the legislative auditor destroy all benefit checks and benefit check authorization cards that are more than two years old and no person shall make any demand, bring any suit or other proceeding to recover from the state of Minnesota any sum alleged to be due on any claim for benefits after the expiration of two years from the date of filing such claim.

Sec. 21. Minnesota Statutes 1986, section 268.121, is amended to read:

268.121 [WAGE REPORTING.]

Beginning on April 1, 1984, each employer subject to this chapter shall provide the commissioner with a quarterly report of *the wages, as defined*

in section 268.04, subdivision 25, paid to each employee of that employer covered by this chapter. The commissioner shall provide the legislature with recommendations for statutory changes to fully implement this section no later than January 1, 1983. The report must include the employee's name, social security number, and the total wages paid to the employee. The report is due and must be filed at the same time as the contribution report in accordance with rules established by the commissioner for filing of quarterly contribution reports. For the purpose of this section, "wages paid" includes wages actually or constructively paid and wages overdue and delayed beyond the usual time of payment.

Sec. 22. Minnesota Statutes 1986, section 268.15, subdivision 3, is amended to read:

Subd. 3. [CONTINGENT ACCOUNT.] There is hereby created in the state treasury a special account, to be known as the economic security contingent account, which shall not lapse nor revert to any other fund. Such account shall consist of all moneys appropriated therefor by the legislature, all moneys in the form of interest and penalties collected pursuant to section sections 268.16 and 268.18, and all moneys received in the form of voluntary contributions to this account and interest thereon. All moneys in such account shall be supplemental to all federal moneys that would be available to the commissioner but for the existence of this account. Moneys in this account are hereby appropriated to the commissioner and shall be expended in accordance with the provisions of section 3.30, in connection with the administration of sections 268.03 to 268.24. Commencing with the fiscal year beginning July 1, 1987, the commissioner is authorized to expend annually, in addition to any federal money and without reference to section 3.30, the sum of \$500,000, from available money in this fund which is derived from interest and penalties collected pursuant to sections 268.16 and 268.18 and money received in the form of voluntary payments and interest thereon, for the purpose of providing for: (1) the investigation of fraud on the part of any person in claiming or obtaining benefits under sections 268.03 to 268.24 or fraud on the part of any employer in attempting to avoid or reduce any contribution or other payment required from an employing unit under those sections; (2) determination of benefit overpayments and contribution underpayments for reasons other than fraud; (3) recovery of money due to the commissioner as a result of clauses (1) and (2); (4) the verification of work search efforts especially in areas with robust economies; and (5) those special services which are reasonably directed toward assisting the unemployed in returning to suitable work. Whenever the commissioner expends moneys from said contingent account for the proper and efficient administration of the Minnesota economic security law for which funds have not yet been made available by the federal government, such moneys so withdrawn from the contingent account shall be replaced as hereinafter provided. Upon the deposit in the economic security administration fund of moneys which are received in reimbursement of payments made as above provided for said contingent account, the commissioner shall certify to the state treasurer the amount of such reimbursement and thereupon the state treasurer shall transfer such amount from the economic security administration fund to said contingent account. All moneys in this account shall be deposited, administered, and disbursed in the same manner and under the same conditions and requirements as is provided by law for the other special accounts in the state treasury. The state treasurer shall be liable on the treasurer's official bond for the faithful performance of duties in connection with the economic security contingent

account provided for herein. Notwithstanding anything to the contrary contained herein, on June 30 of each year, except 1982, all amounts in excess of \$300,000 in this account shall be paid over to the unemployment compensation fund established under section 268.05 and administered in accordance with the provisions set forth therein.

Sec. 23. Minnesota Statutes 1986, section 268.16, subdivision 2, is amended to read:

Subd. 2. [REPORTS; DELINQUENCIES; PENALTIES.] (1) (a) Any employer who knowingly fails to make and submit to the department of jobs and training any contribution report of wages paid by or due from the employer for insured work in the manner and at the time such the report is required by rules prescribed by the commissioner shall pay to the department of jobs and training for the contingent account a penalty in the amount of 1-1/2 percent of contributions accrued during the period for which such the report is required, for each month from and after such date until such the report is properly made and submitted to the department of jobs and training. In no case shall the amount of the penalty imposed hereby be less than \$5 per month. The maximum penalty imposed hereby shall be \$25 or the amount determined at the rate of 1-1/2 percent per month, whichever is greater. Any employing unit which fails to make and submit to the commissioner any report, other than one of wages paid or payable for insured work, as and when required by the rules of the commissioner, shall be subject to a penalty in the sum of \$10 payable to the department of jobs and training for the contingent account. All such penalties shall be in addition to interest and any other penalties provided for by sections 268.03 to 268.24 and shall be collected as provided by section 268.161.

(2) (b) If any employing unit required by sections 268.03 to 268.24 to make and submit contribution reports shall fail to do so within the time prescribed by these sections or by rules under the authority thereof, or shall make, willfully or otherwise, an incorrect, false or fraudulent contribution report, it shall, on the written demand of the commissioner, make such contribution report, or corrected report, within ten days after the mailing of such written demand and at the same time pay the whole contribution, or additional contribution, due on the basis thereof. If such employer shall fail within that time to make such report, or corrected report, the commissioner shall make a report, or corrected report, from the commissioner's own knowledge and from such information as the commissioner can obtain through testimony, or otherwise, and assess a contribution on the basis thereof, which contribution, plus penalties and interest which thereafter accrued (less any payments theretofore made) shall be paid within ten days after the commissioner has mailed to such employer a written notice of the amount thereof and demand for its payment. Any such contribution report or assessment made by the commissioner on account of the failure of the employer to make a report or corrected report shall be prima facie correct and valid, and the employer shall have the burden of establishing its incorrectness or invalidity in any action or proceeding in respect thereto. Whenever such delinquent employer shall file a report or corrected report, the commissioner may, on finding it substantially correct, substitute it for the commissioner's report.

(c) Any employer who fails to file the wage detail report required by section 268.121 shall pay to the department for the contingent account a penalty of one-half of one percent of total wages paid and wages due but

not paid during the period for each month the report is delinquent. The penalty shall not be assessed if the wage detail report is properly made and filed within 30 days after a demand for the report is mailed to the employer's address of record. In no case shall the amount of the penalty, if assessed, be less than \$25. Penalties due under this subdivision may be waived where good cause for late filing is found by the commissioner.

(d) Any employer who files the wage detail report required by section 268.121, but knowingly fails to include any of the required information or knowingly enters erroneous information, shall be subject to a penalty of \$25 for each individual for whom the information is missing or erroneous.

(e) Any employing unit which fails to make and submit to the commissioner any report, other than a contribution report or wage detail report, as and when required by rule, shall be subject to a penalty in the sum of \$50 payable to the department for the contingent account.

(f) The penalties provided for in paragraphs (a), (c), (d), and (e) are in addition to interest and any other penalties imposed by sections 268.03 to 268.24 and shall be collected as provided by section 268.161.

Sec. 24. [REPEALER.]

Minnesota Statutes 1986, section 268.04, subdivisions 29 and 30, are repealed.

Sec. 25. [EFFECTIVE DATE.]

Section 22 and the amendment in section 12 to Minnesota Statutes 1986, section 268.07, subdivision 2, clause (d), are effective July 1, 1987. Sections 1 to 12, except for the amendment in section 12 to section 268.07, subdivision 2, clause (d), 13 to 15, 17 to 21, 23, and 24 are effective January 1, 1988. Section 16 is effective the day following final enactment."

Amend the title as follows:

Page 1, line 6, before "and" insert "25,"

Page 1, line 12, before "repealing" insert "proposing coding for new law in Minnesota Statutes, chapter 268;"

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. 1063: A bill for an act relating to retirement; public employees retirement association; lowering vesting standards; amending Minnesota Statutes 1986, sections 353.29, subdivision 1; 353.30, subdivision 1c; 353.32, subdivision 1a; 353.33, subdivision 1; 353.34, subdivision 3; 353.651, subdivision 1; 353.657, subdivision 2a; 353.71, subdivision 1; and 356.30, 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 352.113, subdivision 1, is amended to read:

Subdivision 1. [AGE AND SERVICE REQUIREMENTS.] Any employee covered by the system who is less than 65 years of age who becomes totally and permanently disabled after ~~ten five~~ or more years of allowable service ~~and any employee who is at least 50 years of age but less than 65 years of age who becomes totally and permanently disabled after five or more years of allowable service~~ shall be entitled to a disability benefit in an amount provided in subdivision 3. If such disabled employee's state service has terminated at any time, at least ~~five~~ *three* years of allowable service must have been rendered after last becoming a state employee covered by the system.

Sec. 2. Minnesota Statutes 1986, section 352.115, subdivision 1, is amended to read:

Subdivision 1. [AGE AND SERVICE REQUIREMENTS.] After separation from state service any employee (a) who has attained the age of at least 55 years and who is entitled to credit for not less than ~~ten five~~ years allowable service or (b) who has received credit for not less than 30 years allowable service regardless of age is entitled upon application to a retirement annuity.

Sec. 3. Minnesota Statutes 1986, section 352.12, subdivision 2, is amended to read:

Subd. 2. [SURVIVING SPOUSE BENEFIT.] If an employee or former employee who has attained the age of at least 50 years and has credit for not less than ~~ten five~~ years allowable service or who has credit for not less than 30 years of allowable service, regardless of age attained, dies before an annuity or disability benefit has become payable, notwithstanding any designation of beneficiary to the contrary, the surviving spouse of the employee may elect to receive, in lieu of the refund with interest provided in subdivision 1, an annuity equal to the joint and 100 percent survivor annuity which the employee could have qualified for had the employee terminated service on the date of death. The surviving spouse may apply for the annuity at any time after the date on which the deceased employee would have attained the required age for retirement based on the employee's allowable service. The annuity shall be computed as provided in sections 352.115, subdivisions 1, 2, and 3, and 352.116, subdivisions 1 and 3. Sections 352.22, subdivision 3, and 352.72, subdivision 2, apply to a deferred annuity payable under this subdivision. The annuity shall cease with the last payment received by the surviving spouse in the lifetime of the surviving spouse. An amount equal to the excess, if any, of the accumulated contributions which were credited to the account of the deceased employee over and above the total of the benefits paid and payable to the surviving spouse shall be paid to the deceased employee's last designated beneficiary or, if none, to the surviving children of the deceased spouse in equal shares or, if none, to the surviving parents of the deceased spouse or, if none, to the representative of the estate of such deceased spouse. Any employee may request in writing that this subdivision not apply and that payment be made only to a designated beneficiary as otherwise provided by this chapter.

Sec. 4. Minnesota Statutes 1986, section 352.22, subdivision 3, is amended to read:

Subd. 3. [DEFERRED ANNUITY.] (1) Any employee with at least ~~ten~~ *five* years of allowable service when such termination occurs may elect to leave the accumulated contributions in the fund and thereby be entitled to

a deferred retirement annuity. This annuity shall be computed in the manner provided by the law in effect at the time state service terminated, on the basis of allowable service prior to termination of service.

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

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

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

Sec. 5. Minnesota Statutes 1986, section 352.72, subdivision 1, is amended to read:

Subdivision 1. [ENTITLEMENT TO ANNUITY.] Any person who has been an employee covered by the Minnesota state retirement system, or a member of the public employees retirement association including the public employees retirement association police and firefighters' fund, or the teachers retirement association, or the state patrol retirement association, or any other public employee retirement system in the state of Minnesota having a like provision but excluding all other funds providing benefits for police officers or firefighters shall be entitled when qualified to an annuity from each fund if total allowable service in all funds or in any two of these funds totals ~~ten~~ five or more years, provided no portion of the allowable service upon which the retirement annuity from one fund is based is again used in the computation for benefits from another fund and provided further that a refund has not been taken from any one of these funds since service entitling the employee to coverage under the system or the employee's membership in any of the associations last terminated. The annuity from each fund shall be determined by the appropriate provisions of the law except that the requirement that a person must have at least ~~ten~~ five years allowable service in the respective system or association shall not apply for the purposes of this section provided the combined service in two or more of these funds equals ~~ten~~ five or more years.

Sec. 6. Minnesota Statutes 1986, section 352.93, subdivision 1, is amended to read:

Subdivision 1. After separation from state service an employee covered under section 352.91 who has attained the age of at least 55 years and has credit for not less than a total of ~~ten~~ five years of covered correctional service and regular Minnesota state retirement system service shall be entitled upon application to a retirement annuity under this section based

only on covered correctional employees' service. Application may be made no earlier than 60 days prior to the date the employee is eligible to retire by reason of both age and service requirements.

For the purpose of this section, average salary means the average of the monthly salary during the employees' highest five successive years of salary as an employee covered by the Minnesota state retirement system.

Sec. 7. Minnesota Statutes 1986, section 352B.08, subdivision 1, is amended to read:

Subdivision 1. Every member who is credited with ~~ten~~ five or more years of allowable service shall be entitled to separate from such state service and upon attaining the age of 55 years, shall be entitled to receive a life annuity, upon separation from state service. Members shall make application for an annuity in a form and manner prescribed by the executive director. No application may be made more than 60 days prior to the date the member is eligible to retire by reason of both age and service requirements. An annuity shall begin to accrue no earlier than 90 days prior to the date the application is filed with the executive director.

Sec. 8. Minnesota Statutes 1986, section 352B.11, subdivision 2, is amended to read:

Subd. 2. [DEATH; PAYMENT TO SPOUSE AND CHILDREN.] In the event any member serving actively as a member, a member receiving the disability benefit provided by section 352B.10, clause (1), or a former member receiving a disability benefit as provided by section 352B.10, clause (3) dies from any cause, the surviving spouse and dependent child or dependent children shall be entitled to benefit payments as follows:

(a) A member with at least ~~ten~~ five years of allowable service or a former member with at least 20 years of allowable service is deemed to have elected a 100 percent joint and survivor annuity payable to a surviving spouse only on or after the date the member or former member attained or would have attained the age of 55.

(b) The surviving spouse of a member who had credit for less than ~~ten~~ five years of service shall receive, for life, a monthly annuity equal to 20 percent of that portion of the average monthly salary of the member from which deductions were made for retirement. If the surviving spouse remarries, the annuity shall cease as of the date of the remarriage.

(c) The surviving spouse of a member who had credit for at least ~~ten~~ five years of service and who dies after attaining 55 years of age, may elect to receive a 100 percent joint and survivor annuity, for life, notwithstanding a subsequent remarriage, in lieu of the annuity prescribed in clause (b).

(d) The surviving spouse of any member who had credit for ~~ten~~ five years or more and who was not 55 years of age at death, shall receive the benefit equal to 20 percent of the average monthly salary as described in clause (b) until the deceased member would have reached the age of 55 years, and beginning the first of the month following that date, may elect to receive the 100 percent joint and survivor annuity. If the surviving spouse remarries prior to the deceased member's 55th birthdate, all benefits or annuities shall cease as of the date of remarriage. Remarriage subsequent to the deceased member's 55th birthday shall not affect the payment of the benefit.

(e) Each dependent child shall receive a monthly annuity equal to ten

percent of that portion of the average monthly salary of the former member from which deductions were made for retirement. A dependent child over the age of 18 years and under the age of 22 years also may receive the monthly benefit provided herein, if the child is continuously attending an accredited school as a full time student during the normal school year as determined by the director. If the child does not continuously attend school but separates from full time attendance during any portion of a school year, the annuity shall cease at the end of the month of separation. In addition, a payment of \$20 per month shall be prorated equally to surviving dependent children when the former member is survived by one or more dependent children. Payments for the benefit of any qualified dependent child shall be made to the surviving spouse, or if there be none, to the legal guardian of the child. The maximum monthly benefit shall not exceed 40 percent of the average monthly salary for any number of children.

(f) If the member shall die under circumstances which entitle the surviving spouse and dependent children to receive benefits under the workers' compensation law, amounts equal to the workers' compensation benefits received by them shall not be deducted from the benefits payable pursuant to this section.

(g) The surviving spouse of a deceased former member who had credit for ~~ten~~ five or more years of allowable service, but excluding the spouse of a former member receiving a disability benefit under the provisions of section 352B.10, clause (3), shall be entitled to receive the 100 percent joint and survivor annuity at such time as the deceased member would have reached the age of 55 years, provided the surviving spouse has not remarried prior to that date. In the event of the death of a former member who does not qualify for other benefits under this chapter, the surviving spouse or, if none, the children or heirs shall be entitled to receive a refund of the accumulated deductions left in the fund plus interest at the rate of five percent per annum compounded annually.

Sec. 9. Minnesota Statutes 1986, section 352B.30, subdivision 1, is amended to read:

Subdivision 1. [ENTITLEMENT TO ANNUITY.] Any person who has been an employee covered by the Minnesota state retirement system, or a member of the public employees retirement association including the public employees retirement association police and firefighters' fund, or the teachers retirement association, or the state patrol retirement fund, or any other public employee retirement system in the state of Minnesota having a like provision but excluding all other funds providing benefits for police or firefighters shall be entitled when qualified to an annuity from each fund if total allowable service in all funds or in any two of these funds totals ~~ten~~ five or more years, provided no portion of the allowable service upon which the retirement annuity from one fund is based is again used in the computation for benefits from another fund and provided further that the member has not taken a refund from any one of these funds since service entitling the member to coverage under the system or membership in any of the associations last terminated. The annuity from each fund shall be determined by the appropriate provisions of the law except that the requirement that a person must have at least ~~ten~~ five years allowable service in the respective system or association shall not apply for the purposes of this section provided the combined service in two or more of these funds equals ~~ten~~ five or more years.

Sec. 10. Minnesota Statutes 1986, section 353.29, subdivision 1, is amended to read:

Subdivision 1. [AGE AND ALLOWABLE SERVICE REQUIREMENTS.] Upon separation from public service any person who has attained the age of at least 65 years and who received credit for not less than ~~ten~~ five years of allowable service is entitled upon application to a retirement annuity. Such retirement annuity is known as the "normal" retirement annuity.

Sec. 11. Minnesota Statutes 1986, section 353.29, subdivision 2, is amended to read:

Subd. 2. [AVERAGE SALARY.] In calculating the annuity under subdivision 3, "average salary" means an amount equivalent to the average of a member's highest salary upon which employee contributions were paid for any five successive years of allowable service, based on dates of salary periods as listed on salary deduction reports. *The five successive years average salary may not include any reduced salary paid during a period in which the employee is entitled to benefit payments from workers' compensation for temporary disability, unless the average salary is higher if benefit payments from workers' compensation are included.*

Sec. 12. Minnesota Statutes 1986, section 353.30, subdivision 1c, is amended to read:

Subd. 1c. Any person who has received credit for at least 30 years of allowable service or any person who has attained the age of at least 55 years but not more than 65 years, and who received credit for at least ~~ten~~ five years of allowable service is entitled upon application to a retirement annuity in an amount equal to the normal annuity provided in section 353.29, subdivisions 2 and 3, reduced by one-quarter of one percent for each month that the member is under age 65 at the time of retirement, except that for any member who has 30 or more years of allowable service the reduction shall be applied only for each month that the member is under age 62 at the time of retirement.

Sec. 13. Minnesota Statutes 1986, section 353.32, subdivision 1a, is amended to read:

Subd. 1a. [SURVIVING SPOUSE OPTIONAL ANNUITY.] If a member or former member who has attained the age of at least 50 years and has credit for not less than ~~ten~~ five years of allowable service, or who has credit for not less than 30 years of allowable service, regardless of age attained, dies before the annuity or disability benefit has become payable, notwithstanding any designation of beneficiary to the contrary, the surviving spouse may elect to receive, in lieu of a refund with interest provided in subdivision 1, or survivor benefits otherwise payable pursuant to section 353.31, an annuity equal to the 100 percent joint and survivor annuity which the member could have qualified for had the member terminated service on the date of death. The surviving spouse may apply for the annuity at any time after the date on which the deceased employee would have attained the required age for retirement based on the employee's allowable service. The annuity shall be computed as provided in sections 353.29, subdivisions 2 and 3; and 353.30, subdivisions 1, 1a, 1b and 1c. Sections 353.34, subdivision 3, and 353.71, subdivision 2, apply to a deferred annuity payable under this subdivision. No payment shall accrue beyond the end of the month in which entitlement to the annuity has terminated. An amount

equal to the excess, if any, of the accumulated contributions which were credited to the account of the deceased employee over and above the total of the annuities paid and payable to the surviving spouse shall be paid to the deceased member's last designated beneficiary or, if none, to the legal representative of the estate of the deceased member. Any member may specify in writing that this subdivision shall not apply and that payment shall be made only to the designated beneficiary, as otherwise provided by this chapter.

Sec. 14. Minnesota Statutes 1986, section 353.33, subdivision 1, is amended to read:

Subdivision 1. [AGE, SERVICE AND SALARY REQUIREMENTS.] Any member who becomes totally and permanently disabled before age 65 and after ~~ten five~~ years of allowable service ~~or after age 50 but before age 65 with five years of allowable service, whichever is sooner~~, shall be entitled to a disability benefit in an amount provided in subdivision 3. If such disabled person's public service has terminated at any time, at least ~~five three~~ of the required ~~ten five~~ years of allowable service must have been rendered after last becoming a member. Any member whose average salary is less than \$75 per month shall not be entitled to a disability benefit. No repayment of a refund otherwise authorized pursuant to section 353.34 and no purchase of prior service or payment made in lieu of salary deductions otherwise authorized pursuant to section 353.01, subdivision 16, 353.017, subdivision 4, or 353.36, subdivision 2 may be made after the occurrence of the disability for which an application pursuant to this section is filed.

Sec. 15. Minnesota Statutes 1986, section 353.33, subdivision 5, is amended to read:

Subd. 5. [BENEFITS PAID UNDER WORKERS' COMPENSATION LAW.] Disability benefits paid shall be reimbursed and future benefits shall be reduced by any amounts received or receivable, including temporary total, permanent total, temporary partial or permanent partial benefits, in either periodic or lump sum payments from the employer under applicable workers' compensation laws, after deduction of amount of attorney fees, authorized under applicable workers' compensation laws, paid by a disablitant *if the total of the single life annuity actuarial equivalent disability benefit and the workers' compensation benefit exceeds: (1) the salary the disabled member received as of the date of the disability or (2) the salary currently payable for the same employment position or an employment position substantially similar to the one the person held as of the date of the disability, whichever is greater. The disability benefit must be reduced to that amount which, when added to the workers' compensation benefits, does not exceed the greater of the salaries described in clauses (1) and (2).*

Sec. 16. Minnesota Statutes 1986, section 353.33, is amended by adding a subdivision to read:

Subd. 5a. [BENEFITS PAID UNDER WORKERS' COMPENSATION LAW.] *A disabled member who is eligible to receive a disability benefit under subdivision 5 as of June 30, 1987, and whose disability benefit amount had been reduced prior to July 1, 1987, as a result of the receipt of workers' compensation benefits, must have the disability benefit payment amount restored, as of July 1, 1987, calculated in accordance with subdivision 5. However, a disabled member is not entitled to receive retroactive repayment of any disability benefit amounts lost before July 1,*

1986, as a result of the reduction required before that date because of the receipt of workers' compensation benefits.

Any disability benefit overpayments made before July 1, 1987, and occurring because of the failure to reduce the disability benefit payment to the extent required because of the receipt of workers' compensation benefits, may be collected by the association through the reduction of disability benefit or annuity payment made on or after July 1, 1987, until the overpayment is fully recovered.

Sec. 17. Minnesota Statutes 1986, section 353.34, subdivision 3, is amended to read:

Subd. 3. [DEFERRED ANNUITY; ELIGIBILITY; COMPUTATION.] Any person with at least ~~ten~~ five years of allowable service when termination of public service occurs shall have the option of leaving the accumulated deductions in the fund and thereby be entitled to a deferred retirement annuity commencing at age 65 or for a deferred early retirement annuity pursuant to section 353.30, subdivisions 1, 1a, 1b or 1c. The deferred annuity shall be computed in the manner provided in section 353.29, subdivisions 2 and 3, on the basis of the law in effect on the date of termination of public service and shall be augmented as provided in section 353.71, subdivision 2. Any person qualified to apply for a deferred retirement annuity may revoke this option at any time prior to the commencement of deferred annuity payments by making application for a refund. The person shall payments by making application for a refund. The person shall be entitled to a refund of accumulated member contributions within 30 days following date of receipt of the application by the executive director.

Sec. 18. Minnesota Statutes 1986, section 353.651, subdivision 1, is amended to read:

Subdivision 1. [AGE AND ALLOWABLE SERVICE REQUIREMENTS.] Upon separation from public service, any police officer or firefighter member who has attained the age of at least 55 years and who received credit for not less than ~~ten~~ five years of allowable service is entitled upon application to a retirement annuity. Such retirement annuity is known as the "normal" retirement annuity.

Sec. 19. Minnesota Statutes 1986, section 353.651, subdivision 2, is amended to read:

Subd. 2. [AVERAGE SALARY.] In calculating the annuity under subdivision 3, "average salary" means an amount equivalent to the average of the highest salary earned as a police officer or firefighter upon which employee contributions were paid for any five successive years of allowable service.

The five successive years average salary may not include any reduced salary paid during a period in which the employee is entitled to benefit payments from workers' compensation for temporary disability unless the average salary is higher if benefit payments from workers' compensation are included.

Sec. 20. Minnesota Statutes 1986, section 353.656, subdivision 2, is amended to read:

Subd. 2. [BENEFITS PAID UNDER WORKERS' COMPENSATION LAW.] If a member, as described in subdivision 1, is injured under cir-

cumstances which entitle the member to receive benefits under the workers' compensation law, the member shall receive the same benefits as provided in subdivision 1, with disability benefits paid reimbursed and future benefits reduced by all periodic or lump sum amounts paid to the member under the workers' compensation law, after deduction of amount of attorney fees, authorized under applicable workers' compensation laws, paid by a disabliant if the total of the single life annuity actuarial equivalent disability benefit and the workers' compensation benefit exceeds: (1) the salary the disabled member received as of the date of the disability or (2) the salary currently payable for the same employment position or an employment position substantially similar to the one the person held as of the date of the disability, whichever is greater. The disability benefit must be reduced to that amount which, when added to the workers' compensation benefits, does not exceed the greater of the salaries described in clauses (1) and (2).

Sec. 21. Minnesota Statutes 1986, section 353.656, is amended by adding a subdivision to read:

Subd. 2a. A disabled member who is eligible to receive a disability benefit under subdivision 2 as of June 30, 1987, and whose disability benefit amount had been reduced prior to July 1, 1987, as a result of the receipt of workers' compensation benefits, must have the disability benefit payment amount restored, as of July 1, 1987, calculated in accordance with subdivision 2. However, a disabled member is not entitled to receive retroactive repayment of any disability benefit amounts lost before July 1, 1986, as a result of the reduction required before that date because of the receipt of workers' compensation benefits.

Any disability benefit overpayments made before July 1, 1987, and occurring because of the failure to reduce the disability benefit payment to the extent required because of the receipt of workers' compensation benefits, may be collected by the association through the reduction of disability benefit or annuity payment made on or after July 1, 1987, until the overpayment is fully recovered.

Sec. 22. Minnesota Statutes 1986, section 353.657, subdivision 2a, is amended to read:

Subd. 2a. If a member who has attained the age of at least 50 years and has credit for not less than ten five years allowable service dies before public service has terminated, or if an employee who has filed a valid application for an annuity or disability benefit prior to termination of public service dies before the annuity or benefit has become payable, notwithstanding any designation of beneficiary to the contrary, the surviving spouse may elect to receive, in lieu of a refund with interest provided in section 353.32, subdivision 1, or survivor benefits otherwise payable pursuant to subdivisions 1 and 2, an annuity equal to the 100 percent joint and survivor annuity which the member could have qualified for on the date of death, computed as provided in sections 353.651, subdivisions 2 and 3, and 353.30, subdivision 3. The surviving spouse may apply for the annuity at any time after the date on which the deceased employee would have attained the required age for retirement based on the employee's allowable service. Sections 353.34, subdivision 3, and 353.71, subdivision 2, apply to a deferred annuity payable under this subdivision. No payment shall accrue beyond the end of the month in which entitlement to such annuity has terminated. An amount equal to the excess, if any, of the accumulated

contributions which were credited to the account of the deceased employee over and above the total of the annuities paid and payable to the surviving spouse shall be paid to the deceased member's last designated beneficiary or, if none, to the legal representative of the estate of such deceased member. Any member may request in writing that this subdivision not apply and that payment be made only to the designated beneficiary, as otherwise provided by this chapter.

Sec. 23. Minnesota Statutes 1986, section 353.71, subdivision 1, is amended to read:

Subdivision 1. [ELIGIBILITY.] Any person who has been a member of the public employees retirement association, or the Minnesota state retirement system, or the teachers retirement association, or any other public retirement system in the state of Minnesota having a like provision, except a fund providing benefits for police officers or firefighters governed by sections 69.77 or 69.771 to 69.776, shall be entitled when qualified to an annuity from each fund if the total allowable service in all funds or in any two of these funds totals ~~ten~~ five or more years, provided no portion of the allowable service upon which the retirement annuity from one fund is based is again used in the computation for benefits from another fund and provided further that the person has not taken a refund from any one of these funds since the person's membership in that association or system last terminated. The annuity from each fund shall be determined by the appropriate provisions of the law except that the requirement that a person must have at least ~~ten~~ five years of allowable service in the respective association or system shall not apply for the purposes of this section provided the combined service in two or more of these funds equals ~~ten~~ five or more years.

Sec. 24. Minnesota Statutes 1986, section 354.44, subdivision 1, is amended to read:

Subdivision 1. [REQUIREMENTS AS TO AGE AND SERVICE.] Any member or former member who ceases or has ceased to render teaching services in any school or institution covered by the provisions of this chapter, and who has attained the age of at least 55 years with not less than ~~ten~~ five years allowable service, or who has received credit for not less than 30 years allowable service regardless of age, is entitled upon written application to a retirement annuity.

Sec. 25. Minnesota Statutes 1986, section 354.46, subdivision 2, is amended to read:

Subd. 2. [DEATH WHILE ELIGIBLE DESIGNATED BENEFICIARY BENEFIT.] The surviving spouse of any member or former member who has attained the age of at least 50 years and has credit for at least ~~ten~~ five years of allowable service or who has credit for at least 30 years of allowable service irrespective of age shall be entitled to joint and survivor annuity coverage in the event of death of the member prior to retirement. If the surviving spouse does not elect to receive a surviving spouse benefit provided pursuant to subdivision 1, if applicable, or does not elect to receive a refund of accumulated member contributions provided pursuant to section 354.47, subdivision 1, or 354.62, subdivision 5, clause (3), whichever is applicable, the surviving spouse shall be entitled to receive, upon written application on a form prescribed by the executive director, a benefit equal to the second portion of a 100 percent joint and survivor annuity as provided pursuant to section 354.45 and computed pursuant to section 354.44, subdivision 2, 6 or 7, whichever is applicable. The surviving spouse may apply

for the annuity at any time after the date on which the deceased employee would have attained the required age for retirement based on the employee's allowable service. Sections 354.44, subdivisions 6 and 7, and 354.60 apply to a deferred annuity payable under this section. If the member was a participant in the variable annuity division, the applicable portion of the benefit shall be computed pursuant to section 354.62, subdivision 5, clause (1). The benefit shall be payable for life.

Sec. 26. Minnesota Statutes 1986, section 354.48, subdivision 1, is amended to read:

Subdivision 1. [AGE, SERVICE AND SALARY REQUIREMENTS.] Any member who became totally and permanently disabled after at least ~~ten five~~ years of allowable service ~~or after age 50 with five years of allowable service, whichever is sooner~~ shall be entitled to a disability benefit in an amount provided in subdivision 3. If such disabled person's teaching service has terminated at any time, at least ~~five three~~ of the required ~~ten five~~ years of allowable service must have been rendered after last becoming a member. Any member whose average salary is less than \$75 per month shall not be entitled to disability benefits.

Sec. 27. Minnesota Statutes 1986, section 354.49, subdivision 3, is amended to read:

Subd. 3. Any person who has attained the age of at least 65 with less than ~~ten five~~ years of credited allowable service shall be entitled to receive a refund in an amount equal to the person's accumulated deductions plus interest in lieu of a proportionate annuity pursuant to section 356.32 except those covered under the provisions of section 354.44, subdivisions 6 or 7 in which case the refund shall be an amount equal to the accumulated deductions credited to the person's account as of June 30, 1957 and after July 1, 1957 the accumulated deductions plus interest at the rate of five percent compounded annually.

Sec. 28. Minnesota Statutes 1986, section 354.60, is amended to read:

354.60 [SERVICE IN OTHER PUBLIC RETIREMENT FUNDS; ANNUITY.]

Any person who has been a member of the Minnesota state retirement system or the public employees retirement association including the public employees retirement association police and fire fund or the teachers retirement association or the Minnesota state patrol retirement association, or any other public employee retirement system in the state of Minnesota having a like provision but excluding all other funds providing benefits for police officers or firefighters shall be entitled when qualified to an annuity from each fund if the person's total allowable service in all three funds or in any two of these funds totals ~~ten five~~ or more years, provided no portion of the allowable service upon which the retirement annuity from one fund is based is again used in the computation for benefits from another fund and provided further that the person has not taken a refund from any one of these three funds since the person's membership in that association has terminated. The annuity from each fund shall be determined by the appropriate provisions of the law except that the requirement that an annuitant have at least ~~ten five~~ years' membership service or ~~ten five~~ years of allowable service in the respective association shall not apply for the purposes of this section provided the combined service in two or more of these funds equals ~~ten five~~ or more years.

Sec. 29. Minnesota Statutes 1986, section 354A.31, subdivision 1, is amended to read:

Subdivision 1. [AGE AND SERVICE REQUIREMENTS.] Any coordinated member or former coordinated member who has ceased to render teaching service for the school district in which the teachers retirement fund association exists and who has either attained the age of at least 55 years with not less than ~~ten~~ five years of allowable service credit or received credit for not less than 30 years of allowable service regardless of age, shall be entitled upon written application to a retirement annuity.

Sec. 30. Minnesota Statutes 1986, section 354A.31, subdivision 5, is amended to read:

Subd. 5. [UNREDUCED NORMAL RETIREMENT ANNUITY.] Upon retirement at age 65 with at least ~~ten~~ five years of service credit or at age 62 with at least 30 years of service credit, a coordinated member shall be entitled to a normal retirement annuity calculated pursuant to subdivision 4.

Sec. 31. Minnesota Statutes 1986, section 354A.31, subdivision 6, is amended to read:

Subd. 6. [REDUCED RETIREMENT ANNUITY.] Upon retirement at an age prior to age 65 with ~~ten~~ five years of service credit or prior to age 62 with at least 30 years of service credit, a coordinated member shall be entitled to a retirement annuity in an amount equal to the normal retirement annuity reduced by one-half of one percent for each month that the coordinated member is under the age of 65 if the coordinated member has less than 30 years of service credit or is under the age of 62 if the coordinated member has at least 30 years of service credit but is over the age of 59, and reduced by one-fourth of one percent for each month that the coordinated member is under the age of 60.

Sec. 32. Minnesota Statutes 1986, section 354A.35, subdivision 2, is amended to read:

Subd. 2. [DEATH WHILE ELIGIBLE TO RETIRE; SURVIVING SPOUSE OPTIONAL ANNUITY.] The surviving spouse of any coordinated member who has attained the age of at least 50 years and has credit for at least ~~ten~~ five years of service or has credit for at least 30 years of service regardless of age shall be entitled to joint and survivor annuity coverage in the event of death of the member prior to retirement. The surviving spouse may apply for the annuity at any time after the date on which the deceased employee would have attained the required age for retirement based on the employee's allowable service. The member's surviving spouse shall be paid a joint and survivor annuity as provided in section 354A.32 and computed pursuant to section 354A.31. Sections 354A.37, subdivision 2, and 354A.39 apply to a deferred annuity payable under this section. The benefits shall be payable for life.

Sec. 33. Minnesota Statutes 1986, section 354A.36, subdivision 1, is amended to read:

Subdivision 1. [MINIMUM AGE, SERVICE AND SALARY REQUIREMENTS.] Any coordinated member who has ~~either~~ at least ~~ten~~ five years of allowable service credit or ~~attained the age of at least 50 years with at least five years of allowable service credit~~, has an average salary of at least \$75 per month and has become totally and permanently disabled shall

be entitled to a disability benefit. If the disabled coordinated member's allowable service credit has not been continuous, at least ~~five~~ *three* years of the required allowable service shall be required to have been rendered subsequent to the last interruption in service.

Sec. 34. Minnesota Statutes 1986, section 354A.39, is amended to read:

354A.39 [SERVICE IN OTHER PUBLIC RETIREMENT FUNDS; ANNUITY.]

Any person who has been a member of the Minnesota state retirement system, the public employees retirement association including the public employees retirement association police and fire fund, the teachers retirement association, the Minnesota state patrol retirement association, the legislators retirement plan, the constitutional officers retirement plan, the Minneapolis employees retirement fund, the Duluth teachers retirement fund association new law coordinated program, the Minneapolis teachers retirement fund association coordinated program, the St. Paul teachers retirement fund association coordinated program, or any other public employee retirement system in the state of Minnesota having a like provision but excluding all other funds providing retirement benefits for police officers or firefighters shall be entitled when qualified to an annuity from each fund if the person's total allowable service in all of the funds or in any two or more of the funds totals ~~ten~~ *five* or more years, provided that no portion of the allowable service upon which the retirement annuity from one fund is based is used again in the computation for a retirement annuity from another fund and provided further that the person has not taken a refund from any of funds or associations since the person's membership in the fund or association has terminated. The annuity from each fund or association shall be determined by the appropriate provisions of the law governing each fund or association, except that the requirement that a person must have at least ~~ten~~ *five* years of allowable service in the respective fund or association shall not apply for the purposes of this section, provided that the aggregate service in two or more of these funds equals ~~ten~~ *five* or more years.

Sec. 35. Minnesota Statutes 1986, section 356.30, subdivision 1, is amended to read:

Subdivision 1. [ELIGIBILITY; COMPUTATION OF ANNUITY.] (1) Notwithstanding any provisions to the contrary of the laws governing the funds enumerated in subdivision 3, a person who has met the qualifications of clause (2) may elect to receive a retirement annuity from each fund in which the person has at least six months allowable service, based on the allowable service in each fund, subject to the provisions of clause (3).

(2) A person may receive upon retirement, in lieu of any augmentation of deferred annuities provided by laws governing the funds enumerated in subdivision 3, a retirement annuity from each fund in which the person has at least six months allowable service if

(a) the person has allowable service totaling ~~ten~~ *five* or more years in any two or more of the enumerated funds;

(b) the person has at least six months of allowable service with the last such fund earned during the last period of employment; and

(c) the person has not begun to receive an annuity from any enumerated fund or the person has made application for benefits from all funds within

a six-month period.

(3) The retirement annuity from each fund shall be based upon the allowable service in each fund, except that:

(a) The laws governing annuities shall be the law in effect on the date of final termination from the last public service under a covered fund.

(b) The "average salary" on which the annuity from each covered fund in which the employee has credit in a formula plan shall be based on the employee's highest five successive years of covered salary during the entire service in covered funds.

(c) The formula percentages to be used by each fund shall be those percentages prescribed by each fund's formula as continued for the respective years of allowable service from one fund to the next, recognizing all previous allowable service with the other covered funds.

(d) Allowable service in all the funds shall be combined in determining eligibility for and the application of each fund's provisions in respect to actuarial reduction in the benefit amount for retirement prior to normal retirement.

(e) The benefit amount payable for any allowable service under a non-formula plan of a covered fund shall not be affected but such service and covered salary shall be used in the above calculation.

(f) This section shall not apply to any person whose final termination from the last public service under a covered fund is prior to May 1, 1975.

(g) For the purpose of computing benefits under this section the formula percentages used by any covered fund shall in no event exceed 2-1/2 percent per year of service for any year of service or fraction thereof.

(h) Any period of time for which a person has credit in more than one of the covered funds shall be used only once for the purpose of determining total allowable service.

(i) If the period of duplicated service credit is more than six months, or the person has credit for more than six months with each of the funds, each fund shall apply its formula to a prorated service credit for the period of duplicated service based on a fraction of the salary on which deductions were paid to that fund for the period divided by the total salary on which deductions were paid to all funds for the period.

(j) If the period of duplicated service credit is less than six months, or when added to other service credit with that fund is less than six months, the service credit shall be ignored and a refund of contributions made to the person in accord with that fund's refund provisions.

Sec. 36. [423A.19] [REDUCED VESTING REQUIREMENT.]

Subdivision 1. [REDUCED VESTING.] Notwithstanding any law to the contrary, for a police or salaried firefighters relief association that implements the provision with municipal approval as provided in subdivision 4, a person with at least five years of service credited by the relief association is entitled, upon termination of active service and reaching at least the required normal retirement age, to receive a pro rata monthly service pension. The pro rata monthly service pension must be calculated in the amount and manner specified by the board of trustees, but not to exceed that portion of the service pension payable upon meeting the minimum

age and years of service requirements that the person's actual years and portions of years of service bear to the minimum service requirement.

Subd. 2. [SURVIVOR BENEFIT COVERAGE.] *A person entitled to or receiving a reduced vesting service pension as provided in subdivision 1 is entitled to surviving spouse benefit coverage, surviving child benefit coverage, or both, if all other qualification requirements are met. The survivor benefit must be calculated in the amount and manner specified by the board of trustees, but not to exceed that portion of survivor benefit payable to a survivor of a deceased retired member who had met the minimum years of service requirement which the actual years and portions of years of service of the person bear to the minimum service requirement for a service pension.*

Subd. 3. [POSTRETIREMENT ADJUSTMENTS.] *A reduced vesting service pension as provided in subdivision 1 or a survivor benefit payable on behalf of a deceased person entitled to or receiving a reduced vesting service pension as provided in subdivision 2 is entitled to postretirement adjustments if the comparable pension or benefit payable when the full minimum service requirement has been met is subject to postretirement adjustments. The postretirement adjustment must be the same percentage increase as the postretirement adjustment for the comparable pension or benefit payable when the full minimum service requirement has been met.*

Subd. 4. [IMPLEMENTATION.] *The reduced vesting requirement must be implemented by a local relief association through an amendment to the bylaws of the relief association with approval by the governing body of the municipality as required by section 69.77, subdivision 2i. The bylaw amendment may not be effective until a certified copy of it and the municipal approval has been filed by the municipal clerk with the executive director of the legislative commission on pensions and retirement, the state auditor, and the secretary of state.*

Sec. 37. [EFFECTIVE DATE.]

Sections 1 to 36 are effective July 1, 1987."

Delete the title and insert:

"A bill for an act relating to retirement; various public pension plans; reducing the required service for vesting for benefits to five years; reducing the workers' compensation offset to public employees retirement association and public employees police and fire fund disability benefits; amending Minnesota Statutes 1986, sections 352.113, subdivision 1; 352.115, subdivision 1; 352.12, subdivision 2; 352.22, subdivision 3; 352.72, subdivision 1; 352.93, subdivision 1; 352B.08, subdivision 1; 352B.11, subdivision 2; 352B.30, subdivision 1; 353.29, subdivisions 1 and 2; 353.30, subdivision 1c; 353.32, subdivision 1a; 353.33, subdivisions 1, 5, and by adding a subdivision; 353.34, subdivision 3; 353.651, subdivisions 1 and 2; 353.656, subdivision 2, and by adding a subdivision; 353.657, subdivision 2a; 353.71, subdivision 1; 354.44, subdivision 1; 354.46, subdivision 2; 354.48, subdivision 1; 354.49, subdivision 3; 354.60; 354A.31, subdivisions 1, 5, and 6; 354A.35, subdivision 2; 354A.36, subdivision 1; 354A.39; and 356.30, subdivision 1; proposing coding for new law in Minnesota Statutes, chapter 423A."

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

Mr. Lessard from the Committee on General Legislation and Public Gaming, to which was referred

S.F. No. 1452: A bill for an act relating to state departments and agencies; abolishing the Minnesota humane society as a state agency and authorizing its formation as a state federation of county and district societies; providing for the powers and duties of county and district societies and for the prevention of cruelty to animals; amending Minnesota Statutes 1986, sections 16B.51, subdivision 1; 43A.27, subdivision 2; 343.01; 343.06; 343.10; 343.12; 343.22, subdivision 1; 343.29, subdivision 1; 346.37, subdivision 6; and 347.37; repealing Minnesota Statutes 1986, section 343.08.

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

Page 4, lines 27 to 31, reinstate the stricken language

Page 4, after line 35, insert:

"Sec. 6. Minnesota Statutes 1986, section 343.11, is amended to read:

343.11 [ACQUISITION OF PROPERTY, APPROPRIATIONS.]

Every county and district society for the prevention of cruelty to animals may acquire, by purchase, gift, grant, or devise, and hold, use, or convey, real estate and personal property, and lease, mortgage, sell, or use the same in any manner conducive to its interest, to the same extent as natural persons. The county board of any county, or the council of any city, in which such societies exist, may, in its discretion, appropriate for the maintenance and support of such societies in the transaction of the work for which they are organized, any sums of money not otherwise appropriated, not to exceed in any one year the sum of \$4,800 or the sum of 50 cents per capita based upon the county's or city's population as of the most recent federal census, whichever is greater; provided, that no part of the appropriation shall be expended for the payment of the salary of any officer of the society."

Page 7, after line 6, insert:

"Sec. 12. [REPORT TO LEGISLATURE.]

The commissioner of administration shall, by January 1, 1988, report to the legislature on the implementation of sections 1 to 11. The report must include the number of counties that have established or maintained county humane societies, the number and location of district societies, and a summary of any efforts to establish a state federation of county and district societies."

Page 7, line 9, delete "10" and insert "11"

Page 7, line 26, delete "12" and insert "14"

Renumber the sections in sequence

Amend the title as follows:

Page 1, line 9, after "343.10;" insert "343.11;"

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

S.F. No. 1272: A bill for an act relating to public meetings; requiring certain notice for all meetings; permitting certain remedies for violations; providing penalties; amending Minnesota Statutes 1986, section 471.705, subdivisions 1b, 2, and by adding subdivisions.

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

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 1986, section 471.705, is amended by adding a subdivision to read:

Subd 1c. [NOTICE OF MEETINGS.] (a) [REGULAR MEETINGS.] A schedule of the regular meetings of a public body shall be kept on file at its primary offices. If a public body decides to hold a regular meeting at a time or place different from the time or place stated in its schedule of regular meetings, it shall give the same notice of the meeting that is provided in this subdivision for a special meeting.

(b) [SPECIAL MEETINGS.] For a special meeting, except an emergency meeting or a special meeting for which a notice requirement is otherwise expressly established by statute, the public body shall post written notice of the date, time, place and purpose of the meeting on the principal bulletin board of the public body, or if the public body has no principal bulletin board, on the door of its usual meeting room. The notice shall also be mailed or otherwise delivered to each person who has filed a written request for notice of special meetings with the public body. This notice shall be posted and mailed or delivered at least three days before the date of the meeting. As an alternative to mailing or otherwise delivering notice to persons who have filed a written request for notice of special meetings, the public body may publish the notice once, at least three days before the meeting, in the official newspaper of the public body or, if there is none, in a qualified newspaper of general circulation within the area of the public body's authority. A person filing a request for notice of special meetings may limit the request to notification of meetings concerning particular subjects, in which case the public body is required to send notice to that person only concerning special meetings involving those subjects. A public body may establish an expiration date for requests for notices of special meetings pursuant to this paragraph and require refiling of the request once each year. Not more than 60 days before the expiration date of a request for notice, the public body shall send notice of the refiling requirement to each person who filed during the preceding year.

(c) [EMERGENCY MEETINGS.] For an emergency meeting, the public body shall make good faith efforts to provide notice of the meeting to each news medium that has filed a written request for notice if the request includes the news medium's telephone number. Notice of the emergency meeting shall be given by telephone or by any other method used to notify the members of the public body. Notice shall be provided to each news medium which has filed a written request for notice as soon as reasonably practicable after notice has been given to the members. Notice shall include the subject of the meeting. Posted or published notice of an emergency meeting shall not be required. An "emergency" meeting is a special meeting called because of circumstances that, in the judgment of the public

body, require immediate consideration by the public body. If matters not directly related to the emergency are discussed or acted upon at an emergency meeting, the minutes of the meeting shall include a specific description of the matters.

(d) [RECESSED OR CONTINUED MEETINGS.] *If a meeting is a recessed or continued session of a previous meeting, and the time and place of the meeting was established during the previous meeting and recorded in the minutes of that meeting, then no further published or mailed notice is necessary. For purposes of this clause, the term "meeting" includes a public hearing conducted pursuant to chapter 429 or any other law or charter provision requiring a public hearing by a public body.*

(e) [CLOSED MEETINGS.] *The notice requirements of this subdivision apply to closed meetings.*

(f) [STATE AGENCIES.] *For a meeting of an agency, board, commission, or department of the state, (i) the notice requirements of this subdivision apply only if a statute governing meetings of the agency, board or commission does not contain specific reference to the method of providing notice, and (ii) all provisions of this subdivision relating to publication shall be satisfied by publication in the state register.*

(g) [ACTUAL NOTICE.] *If a person receives actual notice of a meeting of a public body at least 24 hours before the meeting, all notice requirements of this subdivision are satisfied with respect to that person, regardless of the method of receipt of notice.*

(h) [LIABILITY.] *No fine or other penalty may be imposed on a member of a public body for a violation of this subdivision unless it is established that the violation was willful and deliberate by the member."*

Delete the title and insert:

"A bill for an act relating to public meetings; requiring certain notice for all meetings; amending Minnesota Statutes 1986; section 471.705, by adding a subdivision."

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. 666: A bill for an act relating to credit unions; permitting certain groups to join existing credit unions; amending Minnesota Statutes 1986, section 52.05.

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

Page 2, line 7, reinstate the stricken language and delete the new language

Page 2, line 8, delete the new language

Page 2, lines 18 and 19, reinstate the stricken language

Page 2, line 20, reinstate the stricken language and delete the new language

Page 2, line 22, delete "In addition to any other provisions the"

Page 2, line 23, delete "commissioner considers proper,"

Page 2, line 26, delete "not" and delete the second "a"

Page 2, line 27, delete "*contrary*" and insert "*no*"

Page 2, line 28, after "*applications*" insert "*, except for applications from groups made up of members of existing credit unions,*"

Page 2, line 33, delete "*Credit*"

Page 2, delete lines 34 and 35

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

Mr. Lessard from the Committee on General Legislation and Public Gaming, to which was referred

S.F. No. 757: A bill for an act relating to the organization and operation of state government; adding members to the board of animal health; modifying and clarifying the powers of the board; regulating dealers; prescribing a civil penalty; amending Minnesota Statutes 1986, sections 35.02, subdivision 1; 347.31; 347.32; 347.33; 347.34; 347.35; 347.37; 347.38; 347.39; and 347.40; proposing coding for new law in Minnesota Statutes, chapter 346.

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 347.31, is amended to read:

347.31 [REGULATION OF DOG KENNELS; DEFINITIONS.]

Subdivision 1. [TERMS.] For the purpose of sections 347.31 to 347.40 the terms defined in this section ~~shall~~ have the meanings given to them.

Subd. 2. [DOG KENNEL.] "~~Dog~~ Kennel" means any place, building, tract of land, abode, or vehicle wherein or whereupon dogs or cats are kept, congregated, or confined, ~~such if the dogs having been or cats were~~ obtained from municipalities, ~~dog~~ pounds, ~~dog~~ auctions, or by advertising for unwanted dogs or cats, or dogs or cats strayed, abandoned, or stolen. "~~Dog~~ Kennel" does not ~~mean~~ include a ~~dog~~ pound owned and operated by any political subdivision of the state or a person's home where dogs or cats are kept as pets.

Subd. 3. [PREMISES.] ~~The word~~ "Premises" means any building, structure, shelter, or land wherein or whereon dogs or cats are kept or confined.

Subd. 4. [DEALER.] "~~Dealer~~" means a public or private agency, person, society, or corporation that is licensed or is required to be licensed as a "class B dealer" under United States Code, title 7, sections 2131 to 2155, as amended through December 31, 1986.

Subd. 5. [INSTITUTION.] "~~Institution~~" means a school or college of agriculture, veterinary medicine, medicine, pharmacy, dentistry, or other educational or scientific organization properly concerned with the investigation of living organisms, instruction concerning the structure or functions of living organisms, or the cause, prevention, control, or cure of diseases or abnormal conditions of human beings or animals.

Sec. 2. Minnesota Statutes 1986, section 347.32, is amended to read:

347.32 [LICENSE FOR ~~DOG~~ KENNEL OR DEALER.]

No person, firm, or corporation shall establish, maintain, conduct, or operate a ~~dog~~ kennel *or operate as a dealer* within this state without first obtaining a license therefor from the board of animal health. The license shall be issued for a term of one year.

Sec. 3. Minnesota Statutes 1986, section 347.33, is amended to read:

347.33 [LICENSING PROCEDURES; INSPECTIONS; ADMINISTRATION.]

Subdivision 1. [APPLICATION.] The application for a license to operate and maintain a ~~dog~~ kennel *or operate as a dealer* shall be made to the board of animal health, in the manner prescribed by rules of the board.

Subd. 2. [CONTENTS.] The application for a license shall be in writing and on a form as the board may by rule provide, and shall set forth:

(1) The full name and address of the applicant or applicants, or names and addresses of the partners if the applicant is a partnership, or the names and addresses of the officers if the applicant is a corporation, and the address of the corporation.

(2) The legal description or, in its place, the address and specific location of the site, lot, field, or tract of land upon which it is proposed to operate and maintain a ~~dog~~ kennel.

Subd. 3. [FEES; ISSUANCE OF LICENSE.] The annual license fee is \$10 for each kennel *or dealer* licensed. All license fees collected by the board shall be deposited in the state treasury and credited to the general fund.

When application is made to the board, complete in the manner set forth by rule to be issued by the board, and upon payment of the license fee, the license shall be issued by the board if, after inspection of the premises, the board determines that the ~~dog~~ kennel *or dealer* complies with sections 347.31 to 347.40 and the rules promulgated pursuant to ~~those sections~~.

Sec. 4. Minnesota Statutes 1986, section 347.34, is amended to read:

347.34 [LICENSES REQUIRED.]

It shall be unlawful for any person, firm, or corporation to establish, maintain, conduct, carry on, or operate a ~~dog~~ kennel *or operate as a dealer* without first having received a license to maintain, conduct, carry on, and operate a ~~dog~~ kennel, *or operate as a dealer*, duly signed and executed in the name of the state of Minnesota and signed by the board of animal health. The license shall be conspicuously displayed upon the licensed premises.

All licenses issued under sections 347.31 to 347.40 shall be personal to the licensee and be nontransferable.

Sec. 5. Minnesota Statutes 1986, section 347.35, is amended to read:

347.35 [BOARD OF ANIMAL HEALTH AUTHORIZED TO PROMULGATE RULES.]

The board of animal health shall promulgate rules as it deems necessary for the operation of ~~dog~~ kennels *and dealers* and the enforcement of sections 347.31 to 347.40 which shall be in addition to rules established herein.

The rules adopted by the board with respect to licensing, inspection, and enforcement of this act must provide for cooperation with the United States Department of Agriculture animal plant health inspection service program and for reference of complaints to local enforcement authorities. Rules may must include, but are not limited to, requirements governing the care of dogs and cats, minimum conditions, and maintenance of quarters and dog kennels, the humane treatment of dogs and cats while in the dog kennels, maintenance of detailed records showing the person from whom any dog or cat aged over three months has been received, and, in the case of a dealer, including address, drivers license number, or social security number, and to whom it has been transferred, and preservation of the records for a minimum period of two years. The dealer is responsible for making a reasonable attempt to ensure the accuracy of the data collected.

A payment from a dealer to a person from whom the dealer buys dogs or cats must be by check, payable only to that person. The check must contain the dealer's name and address.

Sec. 6. Minnesota Statutes 1986, section 347.37, is amended to read:

347.37 [PUBLIC ACCESS; NOTICE; INSPECTION; ENFORCEMENT.]

The board of animal health shall cause to be inspected from time to time all dog kennels and dealers licensed hereunder and all records required by sections 347.31 to 347.40 to be kept by the licensees.

Any duly authorized agent of the board, any sheriff, or sheriff's deputy, or police officer, or state humane agent appointed pursuant to section 343.01, is granted the power and the authority to enter upon the premises of any dog kennel or dealer at any time during the daylight hours for the purposes herein set forth, and for the purposes of inspecting the compliance with the provisions of sections 347.31 to 347.40 and the rules issued pursuant thereto, and for the purposes of enforcing sections 347.31 to 347.40.

Each dealer shall post a conspicuous notice in a format no less than 24 by 36 inches and easily readable by the general public, that states: (1) that the person is a licensed dealer in dogs and cats; (2) that dogs and cats left with the dealer may be used for research purposes; and (3) the hours the kennel or dealer is open to the public. The notice must be placed in at least two locations on the premises, one of which must be on or near the exterior mail delivery point and one of which must be at the regularly used point of exchange of dogs and cats. A person may view dogs and cats in the custody of a dealer during the time the premises are open to the public. Dealers are required to be open to the public on a regular basis at least four hours between 7:00 a.m. and 10:00 p.m. on at least four of the seven days of each week including at least one Saturday or Sunday. Any advertisement placed by a dealer seeking dogs or cats must inform the public that dogs and cats brought to the dealer may be used for research purposes.

Sec. 7. Minnesota Statutes 1986, section 347.38, is amended to read:

347.38 [REVOCATION OF LICENSE.]

The board of animal health may as hereinafter set forth revoke or suspend the license of any person, firm, or corporation, for violation of sections 347.31 to 347.40 or the rules issued pursuant to sections 347.31 to 347.40.

Upon written complaint made to the board by any person, firm, or corporation alleging any violation of ~~this law~~ sections 347.31 to 347.40

or any rules pursuant thereto by any licensee, the board may cause an investigation to be made upon matters related in said complaint.

Thereupon the board shall in its discretion either dismiss the complaint or require the kennel or dealer against whom the complaint is made to correct the conditions or violations complained of within ten days after receipt of written notice of the same. If upon termination of the ten day period the licensee has failed to correct or to remedy the violation or violations of sections 347.31 to 347.40 or any rules pursuant thereto, or if the board considers it appropriate under the circumstances the board shall, upon a minimum of 30 days' notice to the licensee, conduct a hearing for the purpose of determining whether the license to operate a kennel or as a dealer should be revoked or temporarily suspended for a period not to exceed six months. If after notice and hearing the board finds that any provision of sections 347.31 to 347.40 has been violated by the licensee or any rule issued by the board has been violated by the licensee, the board may revoke and suspend the license. The suspension shall not exceed a period of six months possession or transfer of a dog or cat by a dealer to an institution without the permission of the owner, failure of a dealer to keep accurate data as required in section 347.35, or failure of a dealer to permit access to its premises as required in section 347.37, is grounds for license revocation. The licensee whose license is revoked or suspended may within 20 days after the board's decision appeal to the district court. The district court shall upon 20 days' notice to the board hear the appeal within 45 days after the filing of the appeal. On the hearing of the appeal the court shall review the decision of the board in a manner as though reviewed by certiorari, except that new or additional evidence may be taken, if in the opinion of the court additional evidence is necessary or proper to the disposition of the case.

Sec. 8. Minnesota Statutes 1986, section 347.39, is amended to read:

347.39 [PENALTIES.]

Violation of any provision of sections 347.31 to 347.40 or of any rule of the board of animal health issued pursuant to sections 347.31 to 347.40, or the operation of a kennel or as a dealer without a license, or the operation of a kennel or as a dealer after revocation of a license or during a period of suspension, shall constitute a misdemeanor.

Sec. 9. Minnesota Statutes 1986, section 347.40, is amended to read:

347.40 [EXCEPTIONS.]

Sections 347.31 to 347.40 shall in no way apply to any veterinarian licensed to practice in the state of Minnesota who keeps, congregates, or confines dogs or cats in the normal pursuit of the practice of veterinary medicine.

The provisions of sections 347.31 to 347.40 shall not apply to any institution licensed to obtain animals under the provisions of section 35.71, and to any person licensed under Public Law Number 89-544, the federal Laboratory Animal Welfare Act.

Sec. 10. [APPROPRIATION.]

There is appropriated from the general fund to the board of animal health the sum of \$_____ for the purposes of this act for the biennium ending June 30, 1989."

Delete the title and insert:

"A bill for an act relating to animals; regulating dealers; appropriating money; amending Minnesota Statutes 1986, sections 347.31; 347.32; 347.33; 347.34; 347.35; 347.37; 347.38; 347.39; and 347.40."

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

H.F. No. 56: A bill for an act relating to health; requiring mosquito research and management activities to be ecologically nondisruptive; amending Minnesota Statutes 1986, section 144.95, subdivisions 1, 2, 3, 7, 9, and 10.

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

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

H.F. No. 1054: A bill for an act relating to vocational rehabilitation; limiting grants to sheltered workshops; providing for use of community-based employment; regulating and defining vocational rehabilitation programs; amending Minnesota Statutes 1986, sections 129A.01; 129A.03; 129A.06; 129A.07; and 129A.08.

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

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

S.F. No. 934: A bill for an act relating to natural resources; providing a program for the control of noxious weeds; appropriating money; amending Minnesota Statutes 1986, sections 18.291; and 18.311; proposing coding for new law in Minnesota Statutes, chapter 86.

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 18.171, subdivision 1, is amended to read:

Subdivision 1. [TERMS.] For the purposes of sections 18.181 to 18.271 and 18.281 to ~~18.311~~ 18.315 the terms defined in subdivisions 2 to 7 and section 3, have the meanings given to them.

Sec. 2. Minnesota Statutes 1986, section 18.171, subdivision 5, is amended to read:

Subd. 5. [NOXIOUS WEEDS.] "Noxious weeds" means the annual, biennial, and perennial plants which are deemed by the commissioner, by *commissioner's order*, to be injurious to public health, public roads, crops, livestock and other property. *The commissioner's orders under this subdivision are not subject to chapter 14.*

Sec. 3. Minnesota Statutes 1986, section 18.171, is amended by adding a subdivision to read:

Subd. 8. [LAND.] "Land" includes wetlands and public waters.

Sec. 4. [18.182] [PENALTY FOR SALE OF PURPLE LOOSESTRIFE.]

A person who sells purple loosestrife, lythrum salicaria, is guilty of a misdemeanor.

Sec. 5. Minnesota Statutes 1986, section 18.241, subdivision 2, is amended to read:

Subd. 2. [RULES REGARDING TRANSPORTATION.] Except as provided in section 21.74, when any person desires to transport along a public highway materials containing seeds or other propagating parts of leafy spurge, horse nettle, Austrian field cress, field bindweed, perennial pepper grass, wild radish, sow thistle, Canada thistle, hoary alyssum, *purple loosestrife*, or any other noxious weed designated by the commissioner, the person shall secure from a local or state weed inspector, or county agricultural inspector, a written permit for the transportation of such material. All duly constituted weed inspectors may issue such permits to persons residing or operating within their respective weed jurisdictions to regulate the transportation of such material and to require proper treatment, cleaning, sterilization or destruction of any such material which has been or is about to be transported or deposited to prevent the growing or scattering of any weed seeds or other propagating parts contained therein. Copies of all permits issued under this section shall be immediately sent to the commissioner.

Except as provided in section 21.74, no grain seed, screenings, hay forage, straw, soil, gravel, sand, or refuse and other materials containing seeds and other propagating parts of leafy spurge, horse nettle, Austrian field cress, field bindweed, perennial pepper grass, wild radish, sow thistle, Canada thistle, hoary alyssum, *purple loosestrife*, or any other noxious weeds designated by the commissioner shall be transported upon any public highway unless it be in sacks, bales, boxes or other containers sufficiently tight and closed or covered with canvas or otherwise to prevent seeds and other propagating parts of such weeds from blowing or scattering along the highway or on other lands or water.

Scattering and dumping on land or in water of grain, seed, and screenings containing seeds and other propagating parts of noxious weeds in excess of legal limits of weed seeds per pound in agricultural seed, and of soil, gravel, rubbish, trash, and other materials containing seeds or other propagating parts of noxious weeds in harmful amounts as determined by rule of the commissioner is prohibited unless such material is processed, treated, or buried sufficiently deep to destroy viable seeds and other propagating parts which they contain down to the limits provided by this section.

Sec. 6. Minnesota Statutes 1986, section 18.291, is amended to read:

18.291 [COMMISSIONER MAY QUARANTINE AND DESTROY WEEDS.]

When from investigation or otherwise, it appears to the commissioner that upon any tract of ~~agricultural~~ land there is an infestation of noxious weeds beyond the ability of the land occupant or owner to eradicate, upon request of the owner, or upon the commissioner's own motion, the com-

missioner shall take such steps as are necessary to prevent further spread of such weed growths. To this end, the commissioner shall quarantine such portion of each tract of land as may be so infested and put into immediate operation the necessary means for the eradication of such weed growths.

Sec. 7. Minnesota Statutes 1986, section 18.311, is amended to read:

18.311 [EXPENSES.]

The expenses of field operations, including cost of chemicals and other materials employed in weed eradication, except machinery and other equipment, shall be paid from the fund provided for this purpose. This fund shall be reimbursed not later than January first, of each year, 20 percent thereof by the county and, ten percent thereof by the town in which the land so quarantined and improved is situated, and ten percent thereof by the landowner involved.

When the infestations of noxious weeds, against which the activities of the commissioner are directed, are found located on the sides of public highways, the expenses of eradication shall be paid, 50 percent by the state from the fund provided for this purpose, 50 percent from the funds provided for the maintenance of the state highway department, if the infestation is on a state highway, 50 percent by the county, if the infestation is on a county or state aid road, and 50 percent by the town, if the infestation is on a town road or cartway.

When infestations of noxious weeds, against which the activities of the commissioner are directed, are found located within the corporate limits of a municipality or on property used by a municipality, the expense of the eradication of such weeds shall be paid as follows: 50 percent thereof by the state from the funds provided for this purpose and 50 percent by the municipality from its general revenue fund.

Sec. 8. [86.78] [CONTROL OF PURPLE LOOSESTRIFE.]

*Subdivision 1. [DEFINITION.] For the purpose of this section, "purple loosestrife" means *lythrum salicaria*.*

Subd. 2. [ESTABLISHMENT OF CONTROL PROGRAM.] The commissioner of natural resources shall coordinate a control program to curb the growth of purple loosestrife. The commissioners of agriculture and transportation must aid and cooperate with the commissioner of natural resources to establish, implement, and enforce the control program.

Sec. 9. [APPROPRIATIONS.]

Subdivision 1. [COMMISSIONER OF NATURAL RESOURCES.] \$_____ is appropriated from the general fund for the biennium ending June 30, 1989, to the commissioner of natural resources for:

<i>(a) program coordination and support</i>	<i>\$ _____</i>
<i>(b) purple loosestrife control</i>	<i>\$160,000</i>
<i>(c) public information and education</i>	<i>\$ _____</i>
<i>(d) evaluation of efficiency of control and environmental impact, which may be done by contract</i>	<i>\$ _____</i>
<i>(e) monitoring and data collecting</i>	<i>\$ _____</i>

The approved complement of the department of natural resources is increased by one position in the unclassified service.

Subd. 2. [COMMISSIONER OF AGRICULTURE.] \$105,000 is appropriated from the general fund for the biennium ending June 30, 1989, to the commissioner of agriculture to restore funding of field operations under section 18.311.

Subd. 3. [COMMISSIONER OF TRANSPORTATION.] \$20,000 is appropriated from the general fund for the biennium ending June 30, 1989, to the commissioner of transportation to control purple loosestrife along highway rights-of-way.

Subd. 4. [PRIVATE CONTRIBUTIONS.] The appropriations by subdivisions 1, 2, and 3, to the maximum extent possible, must be attempted to be equally matched by contributions from private sources. The program coordinator from the department of natural resources shall seek contributions from any private concern that has an interest in controlling purple loosestrife. Private contributions received are annually appropriated for the purpose of this section until June 30, 1989.

Sec. 10. [EFFECTIVE DATE.]

This act is effective the day following final enactment."

Delete the title and insert:

"A bill for an act relating to natural resources; providing a program for the control of noxious weeds; providing that purple loosestrife is a noxious weed; appropriating money; amending Minnesota Statutes 1986, sections 18.171, subdivisions 1 and 5, and by adding a subdivision; 18.241, subdivision 2; 18.291; and 18.311; proposing coding for new law in Minnesota Statutes, chapters 18 and 86."

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. 905: A bill for an act relating to appropriations; appropriating money to the commissioner of natural resources to replace income lost to state trust funds when certain timber permits were canceled.

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

Page 1, after line 13, insert:

"Sec. 2. [TIMBER RELEASED FROM TRUST FOR FIVE YEAR PERIOD; DISPOSITION OF INCOME.]

Upon receipt by the permanent school fund of the funds necessary to replace lost income, as appropriated by section 1, the timber on the state trust fund lands covered by the canceled permits shall be released from the trust for a period of five years. During that five-year period the commissioner of natural resources shall attempt to sell, recycle, or dispose of the timber as otherwise provided by law. Any income generated during the five-year period shall be returned to the general fund to the extent of the funds actually received by the permanent school fund. Any excess shall be deposited in the forest suspense account."

Renumber the sections in sequence

Amend the title as follows:

Page 1, line 5, before the period, insert “; releasing timber from the trust for a five-year period; authorizing the commissioner of natural resources to sell, recycle or dispose of the timber; directing the disposition of income”

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

Mr. Hughes from the Committee on Elections and Ethics, to which was referred

S.F. No. 1101: A bill for an act relating to elections; increasing the size of the board of education of special school district No. 1 of the city of Minneapolis to nine members; providing for six members to be elected by districts; requiring compliance with certain campaign disclosure provisions; amending Minnesota Statutes 1986, sections 383B.041; 383B.042, subdivisions 5 and 9; 383B.053, subdivision 1; and 383B.058; and Laws 1959, chapter 462, section 3, subdivision 1, as amended.

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

Page 2, delete lines 9 to 14 and insert “*district at large. For the 1989 election and later elections, the boundaries of the six school board districts must be determined by the board of education of the district. A candidate for*”

Page 2, line 22, after the period, insert “*The directors elected by district shall reside in the district from which they were elected during their term of office. The directors elected at large shall reside within the school district during their term of office.*”

Page 2, line 24, delete “*reapportionment commission*” and insert “*board of education of the district*”

Page 5, delete lines 4 to 6 and insert “*Notwithstanding Minnesota Statutes, section 645.021, subdivision 2, sections 1 to 6 are effective upon approval by a majority of the voters of special school district No. 1, Minneapolis, voting on the question at the 1987 school board general election.*”

Sec. 8. [BALLOT QUESTION.]

At the election on the question of approval of sections 1 to 6, the question submitted to the voters shall be:

“Shall the Minneapolis school district, beginning in 1989, have three directors elected to represent the district at large and six directors elected to represent six different districts within the school district?”

Yes _____

No _____” ”

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

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

S.F. No. 724: A bill for an act relating to horse racing; modifying the purse structure; providing for the representation of horsepersons contracting with a licensee; modifying taxes; eliminating the payment of a percentage of the breakage to the commission; amending Minnesota Statutes 1986, sections 240.13, subdivision 5; 240.15, subdivisions 1 and 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 240.13, subdivision 5, is amended to read:

Subd. 5. [PURSES.] From the amounts deducted from all pari-mutuel pools by a licensee, ~~an amount equal to not less than five percent of all money in all pools must be set aside by the licensee and used shall set aside for purses for races conducted by the licensee an amount of money as negotiated by the licensee and, with respect to each breed, the horseperson's organization representing the majority of the horsepersons racing at the licensee's facility. For calendar 1987, the amount of money set aside for purses shall be not less than 7.8 percent of all money in all pari-mutuel pools. For calendar 1988, the amount of money set aside for purses shall be not less than 5.7 percent nor more than 9 percent of all money in all pari-mutuel pools. For calendar 1989 and thereafter, the amount of money set aside for purses shall be not less than seven percent nor more than nine percent of all money in all pari-mutuel pools. The amount of money set aside for purses by a licensee operating a racetrack located outside the seven-county metropolitan area, with an average daily handle of \$350,000 or less, shall be not less than five percent of all money in all pari-mutuel pools. The commission may by rule provide for the administration and enforcement of this subdivision.~~

From the money set aside for purses, the licensee shall pay to the horseperson's organization representing the majority of the horsepersons racing the breed involved and contracting with the licensee with respect to purses and the conduct of the racing meetings and providing representation, benevolent programs, benefits, and services for horsepersons and their on-track employees, such amounts as may be determined by agreement by the licensee and the horseperson's organization. The amounts paid may be deducted only from the money set aside for purses to be paid in races for the breed represented by the horseperson's organization. With respect to racing meetings where more than one breed is racing, the licensee may contract independently with the horseperson's organization representing each breed racing.

Sec. 2. Minnesota Statutes 1986, section 240.15, subdivision 1, is amended to read:

Subdivision 1. [TAXES IMPOSED.] (a) There is imposed on the total amount bet on all pari-mutuel pools on each racing day in calendar 1987 a tax at the following rates:

(1) For each racing day in a calendar year on which the total amount bet, together with the total amount bet at the same licensed racetrack in

all previous racing days in the same calendar year does not exceed \$48,000,000, 1-3/4 percent rate of one and three-quarters percent of the total amount bet in all pari-mutuel pools. For calendar 1988, the tax shall be at the rate of one and three-quarters percent for each racing day on which the total amount bet at the same licensed racetrack in all previous racing days in the same calendar year does not exceed \$48,000,000 and five percent for each racing day in the calendar year after the racing day on which the total amount bet in all pari-mutuel pools at the same licensed racetrack exceeds \$48,000,000. For calendar 1989 and thereafter, the tax shall be at the rate of one and three-quarters percent.

(2) For each racing day in a calendar year after the racing day on which the total amount bet in all pari-mutuel pools at the same licensed racetrack in the same calendar year exceeds \$48,000,000, six percent of the total amount bet in all pari-mutuel pools.

In addition to the above tax, the licensee must designate and pay to the commission a tax for deposit in the Minnesota breeders fund, at the following rates:

(1) For racing days on which the state tax under clause (a)(1) is 1-3/4 percent total amount bet, together with the total amount bet at the same licensed racetrack in all previous racing days in the same calendar year does not exceed \$48,000,000, one-half percent of the total amount bet in all pari-mutuel pools.

(2) For racing days after the day on which the state tax under clause (a)(2) is six percent total amount bet in all pari-mutuel pools at the same licensed racetrack in the same calendar year exceeds \$48,000,000, one percent of the total amount bet in all pari-mutuel pools.

(3) Effective January 1, 1988, the rate of tax for deposit in the Minnesota breeders fund shall be one percent of the total amount bet in all pari-mutuel pools.

Additionally, for calendar 1987, \$250,000 shall be deposited in the Minnesota breeders fund from the purse fund.

The taxes imposed by this clause must be paid from the amounts permitted to be withheld by a licensee under section 240.13, subdivision 4.

(b) The commission shall impose on each paid admission to each licensed racetrack on a racing day a tax of 40 cents. It may impose an additional admissions tax of not more than ten cents at any licensed racetrack if:

(1) the additional tax is requested by a local unit of government within whose borders the track is located;

(2) a public hearing is held on the request; and

(3) the commission finds that the local unit of government requesting the additional tax is in need of its revenue to meet extraordinary expenses caused by the racetrack.

Sec. 3. [EFFECTIVE DATE.]

Sections 1 and 2 are effective April 15, 1987."

Amend the title as follows:

Page 1, line 5, delete "eliminating the payment of a percentage of the"

Page 1, line 6, delete "breakage to the commission;"

Page 1, line 8, delete "subdivisions" and insert "subdivision" and delete "and 2"

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. 473: A bill for an act relating to health; requiring a study and report to the legislature on the effects of exposure to low-level ionizing radiation.

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

Delete everything after the enacting clause and insert:

"Section 1. [LOW-LEVEL IONIZING RADIATION REPORTS.]

The commissioner of health shall transmit to the governor and the legislature no later than December 31, 1987, a summary of the major reports on human health effects of low-level ionizing radiation. The reports shall include:

(1) data and risk coefficients relating to ionizing radiation effects of occupational exposure, on human fetuses, and on the general public; and

(2) information on the worldwide effects to the public health of the radioactive emissions resulting from the Chernobyl accident in April 1986."

Delete the title and insert:

"A bill for an act relating to health; requiring the commissioner of health to transmit the major reports on human health effects of low-level ionizing radiation."

And when so amended the bill do pass and be placed on the Consent Calendar. Amendments adopted. Report adopted.

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

S.F. No. 790: A bill for an act relating to human services; mandating a comprehensive system of mental health services; amending Minnesota Statutes 1986, sections 245.713, subdivision 2; 256B.19, subdivision 1, and by adding a subdivision; 256D.03, subdivision 4; 256D.06, subdivisions 3 and 6; 256D.37, subdivision 1; 256E.03, subdivision 2; 256E.06, by adding a subdivision; 256E.07, by adding a subdivision; and 256E.12, subdivision 3; proposing coding for new law in Minnesota Statutes, chapter 245; repealing Minnesota Statutes 1986, sections 245.69, subdivision 1a; 245.713, subdivisions 1 and 3; 245.73; and 256E.12.

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

Delete everything after the enacting clause and insert:

"Section 1. [245.461] [POLICY AND CITATION.]

Subdivision 1. [CITATION.] Sections 1 to 25 may be cited as the "Minnesota comprehensive mental health act."

Subd. 2. [MISSION STATEMENT.] The commissioner shall create and ensure a unified, accountable, comprehensive mental health service system that:

- (1) recognizes the right of people with mental illness to control their own lives as fully as possible;*
- (2) promotes the independence and safety of people with mental illness;*
- (3) reduces chronicity of mental illness;*
- (4) reduces abuse of people with mental illness;*
- (5) provides services designed to:*
 - (i) increase the level of functioning of people with mental illness or restore them to a previously held higher level of functioning;*
 - (ii) stabilize individuals with mental illness;*
 - (iii) prevent the development and deepening of mental illness;*
 - (iv) support and assist individuals in resolving emotional problems that impede their functioning;*
 - (v) promote higher and more satisfying levels of emotional functioning;*
- and*
 - (vi) promote sound mental health; and*
- (6) provides a quality of service that is effective, efficient, appropriate, and consistent with contemporary professional standards in the field of mental health.*

Subd. 3. [REPORT.] By February 15, 1988, and annually after that until February 15, 1990, the commissioner shall report to the legislature on all steps taken and recommendations for full implementation of sections 1 to 25 and on additional resources needed to further implement those sections.

Sec. 2. [245.462] [DEFINITIONS.]

Subdivision 1. [DEFINITIONS.] The definitions in this section apply to sections 1 to 25.

Subd. 2. [ACUTE CARE HOSPITAL INPATIENT TREATMENT.] "Acute care hospital inpatient treatment" means 24-hour-a-day comprehensive medical, nursing, and psychosocial services provided in an acute care hospital licensed under chapter 144.

Subd. 3. [CASE MANAGEMENT SERVICES.] "Case management services" means services designed to help people with serious and persistent mental illness in gaining access to needed medical, social, educational, vocational, and other necessary services. Case management services include assuring completion of a diagnostic assessment, assessing client needs, developing an individual service plan, assisting with applications for government benefits, coordinating with service providers, referring the person to needed mental health and other services, coordinating services, and monitoring the delivery of services.

Subd. 4. [CASE MANAGER.] "Case manager" means an individual authorized by the county board to provide case management services. A case manager must be a social worker, a public health nurse, a mental health professional, or a mental health practitioner, skilled in the process of identifying and assessing a wide range of client needs, and knowledge-

able about local community resources and how to use those resources for the benefit of the client.

Subd. 5. [COMMISSIONER.] "Commissioner" means the commissioner of human services.

Subd. 6. [COMMUNITY SUPPORT SERVICES PROGRAM] "Community support services program" means services, other than inpatient or residential treatment services, provided or coordinated by an identified program and staff under the clinical supervision of a mental health professional and designed to help people with serious and persistent mental illness to function and remain in the community. A community support services program includes development of individual treatment plans, client outreach, medication management, assistance in independent living skills, development of employability and supportive work opportunities, crisis assistance, psychosocial rehabilitation, and the development, identification, and monitoring of living arrangements.

Subd. 7. [COUNTY BOARD.] "County board" means the county board of commissioners or board established pursuant to the joint powers act, section 471.59, or the human services board act, sections 402.01 to 402.10.

Subd. 8. [DAY TREATMENT SERVICES.] "Day treatment services" means a structured program of intensive therapeutic and rehabilitative services at least one day per week for a minimum three-hour time block that is provided within a group setting by a multidisciplinary staff under the clinical supervision of a mental health professional. Day treatment services are not a part of inpatient or residential treatment services, but may be part of a community support services program.

Subd. 9. [DIAGNOSTIC ASSESSMENT.] "Diagnostic assessment" means a written summary of the history, diagnosis, strengths, vulnerabilities, and specific treatment needs of a person with mental illness using diagnostic, interview, and other relevant mental health techniques provided by a mental health professional, used in developing an individual treatment plan and individual service plan.

Subd. 10. [EDUCATION AND PREVENTION SERVICES.] "Education and prevention services" means services designed to educate the general public or special high-risk target populations about mental illness, to increase the understanding and acceptance of problems associated with mental illness, to increase people's awareness of the availability of resources and services, and to improve people's skills in dealing with high-risk situations known to affect people's mental health and functioning.

Subd. 11. [EMERGENCY SERVICES.] "Emergency services" means an immediate response service available on a 24-hour, seven-day-a-week basis for persons having a psychiatric crisis or emergency.

Subd. 12. [INDIVIDUAL SERVICE PLAN.] "Individual service plan" means a written plan developed on the basis of a diagnostic assessment and an assessment of client needs. The plan identifies appropriate services proposed for a person with serious and persistent mental illness to develop independence or improved functioning in daily living. An individual service plan must include the individual treatment plans developed by treatment providers.

Subd. 13. [INDIVIDUAL PLACEMENT AGREEMENT.] "Individual placement agreement" means a written agreement or supplement to a

service contract entered into between the county board and a service provider on behalf of an individual client to provide residential treatment services.

Subd. 14. [INDIVIDUAL TREATMENT PLAN.] *"Individual treatment plan" means a written plan of intervention, treatment, and services for a person with mental illness that is developed by a service provider under the clinical supervision of a mental health professional on the basis of a diagnostic assessment. The plan identifies goals and objectives of treatment, treatment strategy, a schedule for accomplishing treatment goals and objectives, and the individual responsible for providing treatment to the person with mental illness.*

Subd. 15. [LOCAL MENTAL HEALTH PROPOSAL.] *"Local mental health proposal" means the proposal developed by the county board as an identifiable part of the community social services plan, reviewed by the commissioner, and described in section 18.*

Subd. 16. [MENTAL HEALTH BLOCK GRANT.] *"Mental health block grant" means the state appropriation described in sections 19 and 20.*

Subd. 17. [MENTAL HEALTH PRACTITIONER.] *"Mental health practitioner" means a person providing services to persons with mental illness who is qualified in at least one of the following ways:*

(1) holds a bachelor's degree in one of the behavioral sciences or related fields from an accredited college or university, and has 2,000 hours of supervised experience in the delivery of services to persons with mental illness;

(2) has 6,000 hours of supervised experience in the delivery of services to persons with mental illness;

(3) is a graduate student in one of the behavioral sciences or related fields, formally assigned to an agency or facility for clinical training by an accredited college or university;

(4) holds a master's or other graduate degree in one of the behavioral sciences or related fields from an accredited college or university with less than 4,000 hours of post-master's degree experience in the treatment of mental illness; or

(5) for purposes of case management only, has education or supervised experience less than in clauses (1) to (4) but receives 40 hours of training before assuming duties as a mental health practitioner and receives bi-monthly face-to-face clinical supervision regarding the provision of services to persons with mental illness.

Subd. 18. [MENTAL HEALTH PROFESSIONAL.] *"Mental health professional" means a person providing clinical services in the treatment of mental illness who is qualified in at least one of the following ways:*

(1) in psychiatric nursing: a registered nurse with a master's degree in one of the behavioral sciences or related fields from an accredited college or university or its equivalent, who is licensed under sections 148.171 to 148.285, with at least 4,000 hours of post-master's degree supervised experience in the delivery of clinical services in the treatment of mental illness;

(2) in clinical social work: a person with a master's degree in social work from an accredited college or university, with at least 4,000 hours

of post-master's degree supervised experience in the delivery of clinical services in the treatment of mental illness;

(3) in psychology: a psychologist licensed under sections 148.88 to 148.98 who has stated to the board of psychology competencies in the diagnosis and treatment of mental illness;

(4) in psychiatry: a physician licensed under chapter 147 and certified by the American board of psychiatry and neurology or eligible for board certification in psychiatry; or

(5) in allied fields: a person with a master's degree from an accredited college or university in one of the behavioral sciences or related fields, with at least 4,000 hours of post-master's degree supervised experience in the delivery of clinical services in the treatment of mental illness.

Subd. 19. [MENTAL HEALTH SERVICES.] "Mental health services" means all of the services that are described in sections 8 to 16.

Subd. 20. [MENTAL ILLNESS.] (a) "Mental illness" means an organic disorder of the brain or a clinically significant disorder of thought, mood, perception, orientation, memory, or behavior that is listed in the clinical manual of the International Classification of Diseases (ICD-9-CM), current edition, code range 290.0 to 302.99 or 306.0 to 316.0 or the corresponding code in the American Psychiatric Association's Diagnostic and Statistical Manual of Mental Disorders (DSM-MD), current edition, Axes I, II, or III, and that seriously limits a person's capacity to function in primary aspects of daily living such as personal relations, living arrangements, work, and recreation.

(b) A "person with acute mental illness" means a person who has a mental illness that is serious enough to require prompt intervention.

(c) For purposes of sections 1 to 25, a "person with serious and persistent mental illness" means a person who has a mental illness and meets at least one of the following criteria:

(1) The person has undergone two or more episodes of inpatient care for a mental illness within the preceding 24 months.

(2) The person has experienced a continuous psychiatric hospitalization or residential treatment exceeding six months' duration within the preceding 12 months.

(3) The person has had a history of recurring inpatient or residential treatment episodes of a frequency described in clause (1) or (2), but not within the preceding 24 months. There must also be a written opinion of a mental health professional stating that the person is reasonably likely to have future episodes requiring inpatient or residential treatment unless an ongoing community support services program is provided.

Subd. 21. [OUTPATIENT SERVICES.] "Outpatient services" means mental health services, excluding day treatment and community support services programs, provided by or under the clinical supervision of a mental health professional to persons with a mental illness who live outside a hospital setting. Outpatient services include clinical activities such as individual, group, and family therapy; individual treatment planning; diagnostic assessments; medication management; and psychological testing.

Subd. 22. [REGIONAL TREATMENT CENTER INPATIENT SERVICES.] "Regional treatment center inpatient services" means 24-hour-a-

day comprehensive medical, nursing, or psychosocial services provided in a regional treatment center operated by the state.

Subd. 23. [RESIDENTIAL TREATMENT.] "Residential treatment" means a 24-hour-a-day residential program under the clinical supervision of a mental health professional, other than an acute care hospital or regional treatment center, which must be licensed as a residential treatment facility for mentally ill persons under Minnesota Rules, parts 9520.0500 to 9520.0690 for adults, 9545.0900 to 9545.1090 for children, or other rule adopted by the commissioner.

Subd. 24. [SERVICE PROVIDER.] "Service provider" means either a county board or an individual or agency including a regional treatment center under contract with the county board that provides mental health services.

Subd. 25. [CLINICAL SUPERVISION.] "Clinical supervision," when referring to the responsibilities of a mental health professional, means the oversight responsibility of a mental health professional for individual treatment plans, service delivery, and program activities. Clinical supervision may be accomplished by full- or part-time employment of or contracts with mental health professionals. Clinical supervision must be documented by the mental health professional cosigning individual treatment plans and evidence of input into service delivery and program development.

Sec. 3. [245.463] [PLANNING FOR A MENTAL HEALTH SYSTEM.]

Subdivision 1. [PLANNING EFFORT.] Starting on the effective date of sections 1 to 25 and ending June 30, 1988, the commissioner and the county agencies shall plan for the development of a unified, accountable, and comprehensive statewide mental health system. The system must be planned and developed by stages until it is operating at full capacity.

Subd. 2. [TECHNICAL ASSISTANCE.] The commissioner shall provide ongoing technical assistance to county boards to develop local mental health proposals as specified in section 18, to improve system capacity and quality. The commissioner and county boards shall exchange information as needed about the numbers of persons with mental illness residing in the county and the extent of existing treatment components locally available to serve the needs of those persons. County boards shall cooperate with the commissioner in obtaining necessary planning information upon request.

Sec. 4. [245.464] [COORDINATION OF MENTAL HEALTH SYSTEM.]

Subdivision 1. [MENTAL HEALTH BLOCK GRANT.] Effective July 1, 1988, a mental health block grant is established under the supervision of the commissioner. The commissioner shall use the mental health block grant to augment all other sources of funding to help county boards develop, maintain, and fund affordable and locally available mental health services in accordance with sections 1 to 25 and local mental health service proposals within the community social services plan approved by the commissioner.

Subd. 2. [SUPERVISION.] The commissioner shall supervise the development and coordination of locally available mental health services by the county boards in a manner consistent with sections 1 to 25 and chapter 256E. The commissioner shall coordinate regional treatment center services with locally available services. The commissioner shall review local

mental health service proposals developed by county boards as part of the community social services plan as specified in section 18, allocate mental health funds to county boards according to section 19, and provide technical assistance to county boards in developing and maintaining locally available mental health services. The commissioner shall monitor the county board's progress in developing its full system capacity and quality through ongoing review of the county board's mental health proposals, quarterly reports, and other information as required by sections 1 to 25 and chapter 256E.

Subd. 3. [PRIORITIES.] By January 1, 1990, the commissioner shall require each of the services described in sections 8 to 16 to be developed for persons with mental illness within available resources based on the following ranked priorities:

- (1) the provision of locally available emergency services;
- (2) the provision of locally available services to persons with serious and persistent mental illness and persons with acute mental illness;
- (3) the provision of specialized services regionally available to meet the special needs of persons with serious and persistent mental illness and persons with acute mental illness;
- (4) the provision of locally available services to persons with other mental illness; and
- (5) the provision of education and preventive mental health services targeted at high-risk populations.

Sec. 5. [245.465] [DUTIES OF COUNTY BOARD.]

The county board shall use its community social service money and mental health block grant according to the biennial local mental health service proposal in the community social services plan approved by the commissioner. The county board must:

- (1) develop and coordinate a system of affordable and locally available mental health services in accordance with sections 6 to 14;
- (2) provide for case management services to persons with serious and persistent mental illness in accordance with section 15;
- (3) provide for screening of persons specified in section 16 upon admission to a residential treatment facility or acute care hospital inpatient, or informal admission to a regional treatment center; and
- (4) prudently administer grants and purchase-of-service contracts that the county board determines are necessary to fulfill its responsibilities under sections 1 to 25.

Sec. 6. [245.466] [LOCAL SERVICE DELIVERY SYSTEM.]

Subdivision 1. [DEVELOPMENT OF SERVICES.] The county board is responsible for using community social service money and the mental health block grant to develop and coordinate a system of locally available and affordable mental health services. The county board may provide some or all of the mental health services specified in subdivision 2 directly through a county agency or under contracts with other individuals or agencies. A county or counties may enter into an agreement with a regional treatment center to enable the county or counties to provide the services in subdivision 2. Services provided through an agreement between a county

and a regional treatment center must meet the same requirements as services from other service providers. County boards shall demonstrate their continuous progress toward full implementation of sections 1 to 25 during the period July 1, 1987 to January 1, 1990. County boards must develop fully each of the services prescribed by sections 1 to 25 by January 1, 1990, according to the priorities established in section 4 and the local mental health services proposal approved by the commissioner under section 18.

Subd. 2. [MENTAL HEALTH SERVICES.] *The mental health service system developed by each county board must include the following services:*

- (1) *education and prevention services in accordance with section 8;*
- (2) *emergency services in accordance with section 9;*
- (3) *outpatient services in accordance with section 10;*
- (4) *community support program services in accordance with sections 11 and 15;*
- (5) *residential treatment services in accordance with section 12;*
- (6) *acute care hospital inpatient treatment services in accordance with section 13;*
- (7) *regional treatment center inpatient services in accordance with section 14;*
- (8) *case management services in accordance with section 15; and*
- (9) *screening for hospital and residential treatment in accordance with section 16.*

Subd. 3. [LOCAL CONTRACTS.] *Effective January 1, 1988, the county board shall review all proposed county agreements, grants, or other contracts related to mental health services for funding from any local, state, or federal governmental sources. Contracts with service providers must:*

- (1) *name the commissioner as a third party beneficiary;*
- (2) *identify monitoring and evaluation procedures not in violation of the Minnesota government data practices act, chapter 13, which are necessary to ensure effective delivery of quality services;*
- (3) *include a provision that makes payments conditional on compliance by the contractor and all subcontractors with sections 1 to 25 and all other applicable laws, rules, and standards; and*
- (4) *require financial controls and auditing procedures.*

Subd. 4. [JOINT COUNTY MENTAL HEALTH AGREEMENTS.] *In order to provide efficiently the services required by sections 1 to 25, counties are encouraged to join with one or more county boards to establish a multicounty local mental health authority pursuant to the joint powers act, section 471.59, the human services act, sections 402.01 to 402.10, community mental health center provisions, section 245.62, or to enter into multicounty mental health agreements. Participating county boards shall establish acceptable ways of apportioning the cost of the services.*

Subd. 5. [LOCAL ADVISORY COUNCIL.] *The county board, individually or in conjunction with other county boards, shall establish a local mental health advisory council or mental health subcommittee of an ex-*

isting advisory council. The council's members must reflect a broad range of community interests. They must include at least one consumer, one family member of a person with mental illness, one mental health professional, and one community support services program representative. The local mental health advisory council or mental health subcommittee of an existing advisory council shall meet at least quarterly to review, evaluate, and make recommendations regarding the local mental health system. Annually, the local advisory council or mental health subcommittee of an existing advisory council shall arrange for input from the regional treatment center review board regarding coordination of care between the regional treatment center and community based services. The county board shall consider the advice of its local mental health advisory council or mental health subcommittee of an existing advisory council in carrying out its authorities and responsibilities.

Subd. 6. [OTHER LOCAL AUTHORITY.] The county board may establish procedures and policies that are not contrary to those of the commissioner or sections 1 to 25 regarding local mental health services and facilities. The county board shall perform other acts necessary to carry out sections 1 to 25.

Sec. 7. [245.467] [QUALITY OF SERVICES.]

Subdivision 1. [CRITERIA.] Mental health services required by sections 1 to 25 must be:

- (1) based, when feasible, on research findings;
- (2) based on individual clinical needs, cultural and ethnic needs, and other special needs of individuals being served;
- (3) provided in the most appropriate, least restrictive setting available to the county board;
- (4) accessible to all age groups;
- (5) delivered in a manner that provides accountability;
- (6) provided by qualified individuals as required in sections 1 to 25;
- (7) coordinated with mental health services offered by other providers; and
- (8) provided under conditions which protect the rights and dignity of the individuals being served.

Subd. 2. [DIAGNOSTIC ASSESSMENT.] All providers of residential treatment, acute care hospital inpatient treatment and regional treatment centers must complete a diagnostic assessment for each of their clients within five days of admission. Providers of outpatient and day treatment services must complete a diagnostic assessment within ten days of admission. In cases where a diagnostic assessment is available and has been completed within 90 days preceding admission, only updating is necessary.

Subd. 3. [INDIVIDUAL TREATMENT PLANS.] All providers of outpatient, residential, or acute care hospital inpatient treatment and all regional treatment centers must develop an individual treatment plan for each of their clients. The individual treatment plan must be based on a diagnostic assessment. To the extent possible, the client shall be involved in all phases of developing and implementing the individual treatment plan. The individual treatment plan must be developed within ten days of client

intake and reviewed every 90 days thereafter.

Sec. 8. [245.468] [EDUCATION AND PREVENTION SERVICES.]

By July 1, 1988, county boards must provide or contract for education and prevention services to persons residing in the county. Education and prevention services must be designed to:

(1) convey information regarding mental illness and treatment resources to the general public or special high-risk target groups;

(2) increase understanding and acceptance of problems associated with mental illness;

(3) improve people's skills in dealing with high-risk situations known to have an impact on people's mental health functioning; and

(4) prevent development or deepening of mental illness.

Sec. 9. [245.469] [EMERGENCY SERVICES.]

Subdivision 1. [AVAILABILITY OF EMERGENCY SERVICES.] *By July 1, 1988, county boards must provide or contract for enough emergency services in the area to meet the needs of persons in the county who are experiencing an emotional crisis or mental illness. Clients may be required to pay a fee based on their ability to pay. Emergency services must include assessment, intervention, and appropriate case disposition. Emergency services must:*

(1) promote the safety and emotional stability of people with mental illness or emotional crises;

(2) minimize further deterioration of people with mental illness or emotional crises;

(3) help people with mental illness or emotional crises to obtain ongoing care and treatment; and

(4) prevent placement in settings that are more intensive, costly, or restrictive than are necessary and appropriate to meet client needs.

Subd. 2. [SPECIFIC REQUIREMENTS.] *The county board shall require that all service providers of emergency services provide immediate direct access to mental health professionals during regular business hours. For evenings, weekends, and holidays, the service may be by direct toll free telephone access to a mental health professional, a mental health practitioner, or a designated person with training in human services who is under the clinical supervision of a mental health professional. Whenever emergency service during nonbusiness hours is provided by anyone other than a mental health professional, a mental health professional must be available for consultation within 30 minutes.*

Sec. 10. [245.470] [OUTPATIENT SERVICES.]

Subdivision 1. [AVAILABILITY OF OUTPATIENT SERVICES.] *By July 1, 1988, county boards must provide or contract for enough outpatient services within the county or nearby trade area to meet the needs of persons with mental illness residing in the county. Clients may be required to pay a fee based on their ability to pay. Outpatient services include:*

(1) conducting diagnostic assessments;

(2) conducting psychological testing;

- (3) *developing or modifying individual treatment plans;*
- (4) *making referrals and recommending placements as appropriate;*
- (5) *treating a person's mental health needs through therapy;*
- (6) *prescribing and managing medication; and*
- (7) *preventing placement in settings that are more intensive, costly, or restrictive than are necessary and appropriate to meet client needs.*

Subd. 2. [SPECIFIC REQUIREMENTS.] The county board shall require that all service providers of outpatient services:

- (1) *meet the professional qualifications contained in sections 1 to 25;*
- (2) *use a multidisciplinary mental health professional staff including, at a minimum, arrangements for psychiatric consultation, licensed consulting psychologist consultation, and other necessary multidisciplinary mental health professionals;*
- (3) *develop individual treatment plans;*
- (4) *provide initial appointments within three weeks, except in emergencies where there must be immediate access as described in section 9; and*
- (5) *establish fee schedules approved by the county board that are based on a client's ability to pay.*

Sec. 11. [245.471] [COMMUNITY SUPPORT SERVICES PROGRAM.]

Subdivision 1. [AVAILABILITY OF COMMUNITY SUPPORT SERVICES PROGRAM.] By July 1, 1988, county boards must provide or contract for sufficient community support services within the county to meet the needs of persons with serious and persistent mental illness residing in the county. Clients may be required to pay a fee. The county board shall require that all service providers of community support services set fee schedules approved by the county board which are based on the client's ability to pay. The community support services program must be designed to improve the ability of persons with serious and persistent mental illness to:

- (1) *work in a regular or supported work environment;*
- (2) *handle basic activities of daily living;*
- (3) *participate in leisure time activities;*
- (4) *set goals and plans;*
- (5) *obtain and maintain appropriate living arrangements; and*
- (6) *reduce the use of more intensive, costly, or restrictive placements both in number of admissions and lengths of stay as determined by client need.*

Subd. 2. [DAY TREATMENT SERVICES PROVIDED.] (a) By July 1, 1989, day treatment services must be developed as a part of the community support program available to persons with serious and persistent mental illness residing in the county. Clients may be required to pay a fee. Day treatment services must be designed to:

- (1) *provide a structured environment for treatment;*
- (2) *provide family and community support;*

(3) prevent placement in settings that are more intensive, costly, or restrictive than are necessary and appropriate to meet client need; and

(4) establish fee schedules approved by the county board that are based on a client's ability to pay.

(b) County boards may request a waiver from including day treatment services if they can document that:

(1) an alternative plan of care exists through the county's community support program for clients who would otherwise need day treatment services;

(2) that day treatment, if included, would be duplicative of other components of the community support program; and

(3) that because of county demographics and geography, the provision of day treatment services is not cost effective and feasible.

Sec. 12. [245.472] [RESIDENTIAL TREATMENT SERVICES.]

Subdivision 1. [AVAILABILITY OF RESIDENTIAL TREATMENT SERVICES.] By July 1, 1988, county boards must provide or contract for enough residential treatment services to meet the needs of all persons with mental illness residing in the county. Residential treatment services include both intensive and structured residential treatment with length of stay based on client residential treatment need. Services must be as close to the county as possible. Residential treatment must be designed to:

(1) prevent placement in settings that are more intensive, costly, or restrictive than are necessary and appropriate to meet client needs;

(2) help clients achieve the highest level of independent living;

(3) help clients gain the necessary skills to be referred to a community support services program or outpatient services; and

(4) stabilize crisis admissions.

Subd. 2. [SPECIFIC REQUIREMENTS.] Providers of residential services must be licensed under applicable rules adopted by the commissioner and must be clinically supervised by a mental health professional.

Sec. 13. [245.473] [ACUTE CARE HOSPITAL INPATIENT SERVICES.]

Subdivision 1. [AVAILABILITY OF ACUTE CARE HOSPITAL INPATIENT SERVICES.] By July 1, 1988, county boards must make available, through contract or direct provision, enough acute care hospital inpatient treatment services as close to the county as possible to meet the needs of persons with mental illness residing in the county. Acute care hospital inpatient treatment services must be designed to:

(1) stabilize and treat the medical, including psychiatric, condition of people with acute or serious and persistent mental illness;

(2) improve functioning; and

(3) facilitate appropriate referrals, follow-up, and placements.

Subd. 2. [SPECIFIC REQUIREMENTS.] Providers of acute care hospital inpatient services must meet applicable standards established by the commissioner of health and the commissioner of human services.

Sec. 14. [245.474] [REGIONAL TREATMENT CENTER INPATIENT SERVICES.]

Subdivision 1. [AVAILABILITY OF REGIONAL TREATMENT CENTER INPATIENT SERVICES.] By July 1, 1987, the commissioner shall make sufficient regional treatment center inpatient services available to people with mental illness throughout the state. Regional treatment centers are responsible to:

- (1) stabilize and treat the medical, including psychiatric, condition of the person with mental illness;
- (2) improve functioning;
- (3) strengthen family and community support; and
- (4) facilitate appropriate discharge, aftercare, and follow-up placements in the community.

Subd. 2. [QUALITY OF SERVICE.] The commissioner shall biennially determine the needs of all mentally ill patients served by regional treatment centers by administering a client-based evaluation system. The client-based evaluation system must include at least the following independent measurements: behavioral development assessment; habilitation program assessment; medical needs assessment; maladaptive behavioral assessment; and vocational behavior assessment. The commissioner shall propose to the legislature staff ratios for the mental health and support units in regional treatment centers as indicated by the results of the client-based evaluation system. The proposed staffing ratios shall include professional, nursing, direct care, medical, clerical, and support staff based on the client-based evaluation system. The commissioner shall recompute staffing ratios and recommendations on a biennial basis.

Sec. 15. [245.475] [CASE MANAGEMENT SERVICES.]

Subdivision 1. [AVAILABILITY OF CASE MANAGEMENT SERVICES.] (a) By July 1, 1988, the county board shall provide or contract for sufficient case management services to meet the needs of all persons with serious and persistent mental illness residing in the county. Staffing ratios must be sufficient to serve the needs of the clients.

(b) All providers of case management services must develop an individual service plan. This plan must state for each of their clients:

- (1) the goals of each service;
- (2) the activities for accomplishing each goal;
- (3) a schedule for each activity; and
- (4) the frequency of face-to-face client contacts, as appropriate to client need and implementation of the plan.

The individual service plan must incorporate all individual treatment plans. The individual treatment plan may not be a substitute for the development of an individual service plan. The individual service plan must be developed within 30 days of client intake and reviewed every 90 days after it is developed. The case manager is responsible for developing the individual service plan based on a diagnostic assessment and on the assessment of client needs, and for implementing and monitoring the delivery of services. To the extent possible, the person with serious and persistent mental illness, the person's family, service providers, and significant others must be involved in all phases of development and implementation of the individual service plan.

Subd. 2. [DESIGNATION OF CASE MANAGER.] *The county board shall designate a case manager within five working days after receiving an application for community support services or immediately after authorizing payment for residential treatment, acute care hospital inpatient treatment, or regional treatment center services under section 16.*

The county board shall send a written notice to the applicant and the applicant's representative, if any, that identifies the designated case manager.

Subd. 3. [DIAGNOSTIC ASSESSMENT.] *The case manager shall promptly arrange for a diagnostic assessment of the applicant when one is not available as described in section 7, subdivision 2, to determine the applicant's eligibility as a person with serious and persistent mental illness for ongoing case management, community support services or other mental health services. The county board shall notify in writing the applicant and the applicant's representative, if any, if the applicant is determined ineligible for services.*

Subd. 4. [ARRANGEMENT OF SERVICES.] *Upon a determination of eligibility for ongoing case management, the case manager shall develop an individual service plan as specified in subdivision 1, arrange and authorize payment for appropriate services, review the client's progress, and monitor the provision of services. If services are to be provided in a host county that is not the county of financial responsibility, the case manager shall consult with the host county and obtain a letter demonstrating the concurrence of the host county regarding the provision of services.*

Subd. 5. [BENEFITS ASSISTANCE.] *By July 1, 1988, help in applying for federal benefits, including supplemental security income, medical assistance, and Medicare, must be provided to individuals with serious and persistent mental illness for whom the county is financially responsible and who may qualify for these benefits. The case manager must offer help in applying for federal benefits to all persons with serious and persistent mental illness.*

Sec. 16. [245.476] [SCREENING FOR HOSPITAL AND RESIDENTIAL TREATMENT.]

Subdivision 1. [SCREENING REQUIRED.] *By January 1, 1989, the county board shall screen all persons before they may be admitted for treatment of mental illness to a residential treatment facility or an acute care inpatient hospital, or informally admitted to a regional treatment center if the mental health block grant, community social service money, general assistance medical care, medical assistance, or the regional treatment center account is used to pay for the services. Screening prior to admission must occur within five working days of the request for placement. If a person is admitted for treatment of mental illness on an emergency basis to a residential facility or acute care hospital or held for emergency care by a regional treatment center under section 253B.05, subdivision 1, screening must occur within five days of the admission. Persons must be screened to ensure that: (1) an admission is necessary, (2) the length of stay is as short as possible consistent with individual client need, and (3) a case manager is immediately assigned to individuals with serious and persistent mental illness and an individual service plan is developed. A county board representative authorized to approve the use of community social service money and the mental health block grant must be involved in the placement decision when the mental health professional conducting*

the screening is not a county employee authorized to approve the use of these funds. The screening process and placement decision must be documented.

Subd. 2. [QUALIFICATIONS.] Screening for residential and inpatient services must be conducted by a mental health professional. Mental health professionals providing screening for inpatient and residential services must not be financially affiliated with the admitting acute care inpatient hospital, residential treatment facility, or regional treatment center. The commissioner may waive this requirement in sparsely populated areas.

Subd. 3. [INDIVIDUAL PLACEMENT AGREEMENT.] The county board shall enter into an individual placement agreement with a provider of residential services to a person eligible for services under this section. The agreement must specify the payment rate and terms and conditions of county payment for the placement. The client may be required to pay a fee, based on a fee schedule approved by the county board. The fee charged to the client must be based on the client's ability to pay.

Sec. 17. [245.477] [APPEALS.]

Any person whose application for mental health services under sections 1 to 16 is denied, not acted upon with reasonable promptness, or whose services are suspended, reduced, or terminated may contest that action before the state agency as specified in section 256.045.

Sec. 18. [245.478] [LOCAL MENTAL HEALTH PROPOSAL.]

Subdivision 1. [TIME PERIOD.] The first local mental health proposal period is from July 1, 1988, to December 31, 1989. The county board shall submit its first proposal to the commissioner by January 1, 1988. The first proposal must be submitted as an amendment to the current community social services plan required by section 256E.09. Subsequent proposals must be an integral part of and on the same two-year cycle as the community social service plan. The proposal must be made available upon request to all residents of the county at the same time it is submitted to the commissioner.

Subd. 2. [PROPOSAL CONTENT.] The local mental health proposal must be an identifiable section of the community social service plan and must include:

(1) the local mental health advisory council's or mental health subcommittee of an existing advisory council's report on unmet needs and any other needs assessment used by the county board in preparing the local mental health proposal;

(2) a description of the local mental health advisory council's or the mental health subcommittee of an existing advisory council's involvement in preparing the local mental health proposal and methods used by the county board to obtain participation of citizens, mental health professionals, and providers in development of the local mental health proposal;

(3) information for the preceding year, including the actual number of clients who received each of the mental health services listed in sections 8 to 16, and actual expenditures and revenues for each mental health service;

(4) for the first proposal period only, information for the year during which the proposal is being prepared:

(i) a description of the current mental health system identifying each mental health service listed in sections 8 to 16;

(ii) a description of each service provider, including a listing of the professional qualifications of the staff involved in service delivery, that is either the sole provider of one of the services described in sections 8 to 16 or that provides over \$10,000 of mental health services per year;

(iii) a description of how the mental health services in the county are unified and coordinated;

(iv) the estimated number of clients receiving each mental health service; and

(v) estimated expenditures and revenues for each mental health service; and

(5) the following information describing how the county board intends to meet the requirements of sections 1 to 25 during the proposal period:

(i) specific objectives and outcome goals for each mental health service listed in sections 8 to 16;

(ii) a description of each service provider, including county agencies, contractors, and subcontractors, that is expected either to be the sole provider of one of the services described in sections 8 to 16 or to provide over \$10,000 of mental health services per year, including a listing of the professional qualifications of the staff involved in service delivery;

(iii) a description of how the mental health services in the county will be unified and coordinated;

(iv) the estimated number of clients who will receive each mental health service; and

(v) estimated expenditures and revenues for each mental health service.

Subd. 3. [PROPOSAL FORMAT.] The local mental health proposal must be made in a format prescribed by the commissioner. The commissioner shall design the format to meet requirements for allocation of funds under both the community social services act, chapter 256E, and the mental health block grant, section 19.

Subd. 4. [PROVIDER APPROVAL.] The commissioner's review of the local mental health proposal must include a review of the qualifications of each service provider required to be identified in the local mental health proposal under subdivision 2. The commissioner may reject a county board's proposal for a particular provider if:

(1) the provider does not meet the professional qualifications contained in sections 1 to 25;

(2) the provider does not possess adequate fiscal stability or controls to provide the proposed services as determined by the commissioner; or

(3) the provider is not in compliance with other applicable state laws or rules.

Subd. 5. [SERVICE APPROVAL.] The commissioner's review of the local mental health proposal must include a review of the appropriateness of the amount and types of mental health services in the local mental health proposal. The commissioner may reject the county board's proposal if the commissioner determines that the amount and types of services proposed

are not cost effective, do not meet client needs, or do not comply with sections 1 to 25.

Subd. 6. [PROPOSAL APPROVAL.] *The commissioner shall review each local mental health proposal within 90 days and work with the county board to make any necessary modifications to comply with sections 1 to 25. After the commissioner has approved the proposal, the county board is eligible to receive an allocation from the mental health block grant as described in chapter 19 and community social service state aids under chapter 256E.*

Subd. 7. [PARTIAL OR CONDITIONAL APPROVAL.] *If the local mental health proposal is in substantial but not full compliance with sections 1 to 25 and necessary modifications cannot be made before the proposal period begins, the commissioner may grant partial or conditional approval and withhold a proportional share of the county board's community social services and mental health block grant allocation until full compliance is achieved.*

Subd. 8. [AWARD NOTICE.] *Upon approval of the county board proposal, the commissioner shall send a notice of approval for funding. The notice must specify any conditions of funding and is binding on the county board. Failure of the county board to comply with the approved proposal and funding conditions may result in withholding or repayment of funds as specified in section 21.*

Subd. 9. [PLAN AMENDMENT.] *If the county board finds it necessary to make significant changes in the approved local proposal, it must present the proposed changes to the commissioner for approval at least 60 days before the changes take effect. "Significant changes" means:*

(1) the county board proposes to provide a mental health service through a provider other than the provider listed for that service in the approved local proposal;

(2) the county board expects the total annual expenditures for any single mental health service to vary more than ten percent from the amount in the approved local proposal;

(3) the county board expects a combination of changes in expenditures per mental health service to exceed more than ten percent of the total mental health services expenditures; or

(4) the county board proposes a major change in the specific objectives and outcome goals listed in the approved local proposal.

Sec. 19. [245.479] [MENTAL HEALTH BLOCK GRANT.]

Subdivision 1. [DEFINITION.] *For purposes of this section, "CSSA base level" means the total expenditures indicated in each county's actual 1987 expenditure report under "State CSSA, Title XX and County Tax" for services to persons with mental illness:*

(1) plus the total for emotionally disturbed children placed in Rule 5 facilities under the "Families and Children" target population in the actual 1987 expenditure report. The department of human services and the counties will analyze and determine the number of emotionally disturbed children placed in Rule 5 facilities;

(2) minus the county share for regional treatment center services as identified in the approved 1987 community social service plan for services

to persons with mental illness.

Subd. 2. [ADJUSTMENTS TO CSSA BASE LEVEL.] *The commissioner shall work with the county board to develop an adjusted base level as necessary to reflect the following changes:*

(1) the county board redefines its community social service expenditures to be more consistent with state reporting instructions under sections 256E.08 and 256E.10; or

(2) the county board demonstrates that a reduced base level is appropriate due to a decline in the county's population.

Subd. 3. [ALLOWABLE USES.] *The county board shall use its allocation from the state mental health block grant for mental health services for which other sources of funding are not available. Until December 31, 1989, mental health block grant expenditures must be in addition to expenditures which are defined in the same manner as the CSSA base level in subdivision 1 and are at least equal in total dollars to the CSSA base level. The mental health block grant must not be used for inpatient services as defined in section 2, subdivisions 2 and 22.*

Subd. 4. [PAYMENT LIMITS.] *Payments to each county from the mental health block grant are limited to the lesser of:*

(1) 90 percent of the county's expenditures as defined in subdivision 3 and as described in the approved local proposal; or

(2) the total allocated under subdivisions 8 to 10.

Subd. 5. [COUNTY MATCH.] *At least 10 percent of the county's expenditures as defined in subdivision 3 shall be paid from the county's own funds unless the county qualifies for an exception under subdivision 6. These funds must not be funds which the county is also using as the legally required match for other state funds.*

Subd. 6. [RECOGNITION OF EXTRA CSSA EFFORT.] *The 90 percent limit for the state share in subdivision 4, clause (1), shall be increased if a county's CSSA base level includes extra effort as defined by this subdivision. The increase shall be up to 100 percent and shall equal the amount by which the county's CSSA base level exceeds the sum of the following amounts for the current year:*

(1) 20 percent of the county's state community social services allocation under section 256E.06;

(2) the county tax funds required by section 256E.06 to match the state funds in clause (1);

(3) 20 percent of the county's Title XX allocation under section 256E.07; and

(4) 10 percent of the county's mental health block grant allocation under subdivisions 8 to 10.

Subd. 7. [TIME PERIOD FOR ALLOCATIONS.] *The first allocations from the mental health block grant must be for the six-month period July 1 to December 31, 1988. Later allocations must be on a calendar year basis.*

Subd. 8. [MENTAL HEALTH BLOCK GRANT BASE LEVEL ALLOCATIONS.] *Each county's annual allocation from the mental health*

block grant must include an amount at least equal to the sum of the following amounts for persons with mental illness who were the financial responsibility of the county board:

(1) the state funds expended by or for the county board under Minnesota Statutes 1986, sections 245.73 and 256E.12, in fiscal year 1987, with the exclusion of grants made for special one-time projects, the exclusion of grants for programs closed in 1987 or 1988, and with the addition of an annualized equivalent of grants made for new programs opening in 1987 or 1988; and

(2) the federal mental health block grant funds allocated for the county board under Minnesota Statutes 1986, section 245.713, subdivision 1, for calendar year 1987.

Subd. 9. [ALLOCATION OF INCREASED FUNDS.] *If the statewide total available for allocation under this section is more than the amount in subdivision 8 and the reserve fund in subdivision 10, the increased funds must be distributed on the basis of the number of persons residing in each county as determined by the most recent data of the state demographer.*

Subd. 10. [RESERVE FUND.] *The reserve fund must include funds returned from counties under section 22. The commissioner shall make allocations from the reserve fund on the following criteria:*

(1) the approved local proposal must show that the county board's allocation under subdivisions 8 and 9 will be less than 85 percent of the county board's expenditures in subdivision 3, or the county board provides new information showing that an unexpected increase in the need or cost of mental health services will result in the county board's mental health block grant allocation falling below 85 percent of the county board's expenditures in subdivision 3;

(2) based on past performance, the county board must demonstrate ability to use funds in a cost effective way to provide quality services;

(3) the county board and its contractors must demonstrate that third-party fees, appropriate client fees, and other alternate funds are being used wherever reasonably possible; and

(4) the county board has chosen services and vendors that are cost effective and appropriate to client needs.

Subd. 11. [PAYMENTS TO COUNTY BOARDS.] *After the commissioner has approved an allocation from the mental health block grant, payments must be on a quarterly basis. Each payment must include the estimated mental health block grant share for the current quarter and an adjustment based on the actual mental health block grant share for the preceding quarter. The commissioner shall make a payment only after receiving a completed expenditure report for the preceding quarter.*

Subd. 12. [COUNTY OF FINANCIAL RESPONSIBILITY.] *For purposes of sections 1 to 25, the county of financial responsibility is the same as that for community social services under section 256E.08, subdivision 7. Disputes between counties regarding financial responsibility must be resolved by the commissioner in accordance with section 256D.18, subdivision 4.*

Sec. 20. [245.481] [TRANSFER OF FUNDS.]

Subdivision 1. [BETWEEN APPROPRIATIONS.] *To establish the mental*

health block grant, the appropriations for fiscal year 1989 must include a transfer of funds into the mental health block grant from the appropriations under sections 245.73 and 256E.12.

Subd. 2. [BETWEEN FISCAL YEARS.] Funds appropriated to the commissioner for mental health services for fiscal year 1988 are available for expenditure in fiscal year 1989.

Subd. 3. [LATER APPROPRIATIONS.] Each appropriation for the mental health block grant after fiscal year 1989 shall include an increase at least equal to the projected increase in overall national consumer prices as determined by the commissioner of finance.

Subd. 4. [FUTURE TRANSFERS.] The commissioner shall include in the annual report required under section 1 recommendations regarding additional transfers to the mental health block grant.

Sec. 21. [245.482] [REPORTING AND EVALUATION.]

Subdivision 1. [FISCAL REPORTS.] The commissioner shall develop a unified format for quarterly fiscal reports that will include information that the commissioner determines necessary to carry out sections 1 to 25 and section 256E.08. The county board shall submit a completed fiscal report in the required format no later than 20 days after the end of each quarter.

Subd. 2. [PROGRAM REPORTS.] The commissioner shall develop a unified format for an annual program report that will include information that the commissioner determines necessary to carry out sections 1 to 25 and section 256E.10. The county board shall submit a completed program report in the required format no later than March 15 of each year.

Subd. 3. [PROVIDER REPORTS.] The commissioner may develop a format and procedures for direct reporting from service providers to the commissioner to include information that the commissioner determines necessary to carry out sections 1 to 25. In particular, the provider reports must include aggregate information by county of residence about mental health services paid for by funding sources other than counties.

Subd. 4. [INACCURATE OR INCOMPLETE REPORTS.] The commissioner shall promptly notify a county or provider if a required report is clearly inaccurate or incomplete. The commissioner may delay all or part of a community social services or mental health block grant payment if an appropriately completed report is not received as required by this section.

Subd. 5. [STATEWIDE EVALUATION.] The commissioner shall use the county and provider reports required by this section and chapter 256E to complete the statewide report required in section 1.

Sec. 22. [245.483] [TERMINATION OR RETURN OF AN ALLOCATION.]

Subdivision 1. [FUNDS NOT NEEDED.] If the commissioner determines that funds are not needed to carry out an approved local proposal, or that a county board's projected expenditures will not be sufficient to qualify for its entire mental health block grant allocation, and if the county board agrees the funds are not needed, the county board shall immediately return the unneeded funds. County board agreement is not needed when the county's final expenditure report for the year indicates that the county's actual expenditures were not sufficient to qualify for its entire mental health block

grant allocation.

Subd. 2. [FUNDS NOT PROPERLY USED.] *If the commissioner determines that a county is not meeting the requirements of sections 1 to 25 or that funds are not being used according to the approved local proposal, all or part of the community social services and mental health block grant allocation may be terminated upon 30 days notice to the county board. The commissioner may require repayment of any funds not used according to the approved local proposal. If the commissioner receives a written appeal from the county board within the 30-day period, opportunity for a hearing under the Minnesota administrative procedure act, chapter 14, must be provided before the allocation is terminated or is required to be repaid. The 30-day period begins when the county board receives the commissioner's notice by certified mail.*

Subd. 3. [USE OF RETURNED FUNDS.] *The commissioner may reallocate mental health block grant funds returned under subdivision 1 or 2 through the reserve fund under section 19.*

Subd. 4. [DELAYED PAYMENTS.] *If the commissioner finds that a county board or its contractors are not in compliance with the approved local proposal or sections 1 to 25, the commissioner may delay all or part of the quarterly community social services and mental health block grant payment until the county board and its contractors meet the requirements. The commissioner shall not delay a payment without first issuing a notice under subdivision 2 that all or part of the allocation will be terminated or required to be repaid.*

Subd. 5. [STATE ASSUMPTION OF RESPONSIBILITY.] *If the commissioner determines that services required by sections 1 to 25 will not be provided by the county board in the manner or to the extent required by sections 1 to 25, the commissioner shall contract directly with providers to ensure that clients receive appropriate services. In this case, the commissioner shall use the county board's community social services and mental health block grant allocation to the extent necessary to carry out the county's responsibilities under sections 1 to 25. The commissioner shall work with the county board to allow for a return of authority and responsibility to the county board as soon as compliance with sections 1 to 25 can be assured.*

Sec. 23. [245.484] [RULES.]

The commissioner shall adopt permanent rules as necessary to carry out sections 1 to 25.

Sec. 24. [245.485] [NO RIGHT OF ACTION.]

Sections 1 to 23 do not independently establish a right of action on behalf of recipients of services or service providers against a county board or the commissioner. A claim for monetary damages must be brought under section 3.736 or 3.751.

Sec. 25. [245.486] [LIMITED APPROPRIATIONS.]

Nothing in sections 1 to 24 shall be construed to require the commissioner or county boards to fund services beyond the limits of legislative appropriations.

Sec. 26. *Minnesota Statutes 1986, section 245.713, subdivision 2, is amended to read:*

Subd. 2. [TOTAL FUNDS AVAILABLE; REDUCTIONS ALLOCATION.] ~~The amount of funds available for allocation to counties for use by qualified community mental health centers shall be the total amount of Funds granted to the state by the federal government under United States Code, title 42, sections 300X to 300X-9 each federal fiscal year for mental health services reduced by the sum of the following shall be allocated as follows:~~

(a) Any amount set aside by the commissioner of human services for American Indian ~~tribal~~ organizations within the state, which funds shall not duplicate any direct federal funding of American Indian ~~tribal~~ organizations and which funds shall ~~not exceed 12~~ *be at least 25 percent of the total block grant federal allocation to the state for mental health services; provided that sufficient applications for funding are received by the commissioner which meet the specifications contained in requests for proposals and*. Money from this source may be used for special committees to advise the commissioner on mental health programs and services for American Indians and other minorities or underserved groups; ~~and~~. *For purposes of this subdivision, "American Indian organization" means an American Indian tribe or band or an organization providing mental health services which is legally incorporated as a nonprofit organization registered with the secretary of state and governed by a board of directors having at least a majority of American Indian directors.*

(b) Any amount calculated into the base of the block grant that is made available by the commissioner for qualified community mental health centers that were receiving grants for operations or other continuing grant obligations defined in United States Code, title 42, sections 300X to 300X-9 immediately prior to its enactment.

(c) An amount not to exceed ten percent of the total federal block grant allocation for mental health services to be retained by the commissioner for administration.

(d) (c) Any amount permitted under federal law which the commissioner approves for demonstration or research projects for severely disturbed children and adolescents, the underserved, special populations or multiply disabled mentally ill persons. The groups to be served, the extent and nature of services to be provided, the amount and duration of any grant awards are to be based on criteria set forth in the Alcohol, Drug Abuse and Mental Health Block Grant Law, United States Code, title 42, sections 300X to 300X-9, and on state policies and procedures determined necessary by the commissioner. Grant recipients must comply with applicable state and federal requirements and demonstrate fiscal and program management capabilities that will result in provision of quality, cost-effective services.

(e) (d) The amount required under federal law, for federally mandated expenditures.

(e) *An amount not to exceed ten percent of the federal block grant allocation for mental health services to be retained by the commissioner for planning and evaluation.*

Sec. 27. Minnesota Statutes 1986, section 256B.02, subdivision 8, is amended to read:

Subd. 8. [MEDICAL ASSISTANCE; MEDICAL CARE.] "Medical assistance" or "medical care" means payment of part or all of the cost of the following care and services for eligible individuals whose income and re-

sources are insufficient to meet all of this cost:

(1) Inpatient hospital services. A second medical opinion is required prior to reimbursement for elective surgeries. The commissioner shall publish in the State Register a proposed list of elective surgeries that require a second medical opinion prior to reimbursement. The list is not subject to the requirements of sections 14.01 to 14.70. The commissioner's decision whether a second medical opinion is required, made in accordance with rules governing that decision, is not subject to administrative appeal;

(2) Skilled nursing home services and services of intermediate care facilities, including training and habilitation services, as defined in section 256B.50, subdivision 1, for persons with mental retardation or related conditions who are residing in intermediate care facilities for persons with mental retardation or related conditions. Medical assistance must not be used to pay the costs of nursing care provided to a patient in a swing bed as defined in section 144.562;

(3) Physicians' services;

(4) Outpatient hospital or nonprofit community health clinic services or physician-directed clinic services. The physician-directed clinic staff shall include at least two physicians, one of whom is on the premises whenever the clinic is open, and all services shall be provided under the direct supervision of the physician who is on the premises. Hospital outpatient departments are subject to the same limitations and reimbursements as other enrolled vendors for all services, except initial triage, emergency services, and services not provided or immediately available in clinics, physicians' offices, or by other enrolled providers. "Emergency services" means those medical services required for the immediate diagnosis and treatment of medical conditions that, if not immediately diagnosed and treated, could lead to serious physical or mental disability or death or are necessary to alleviate severe pain. Neither the hospital, its employees, nor any physician or dentist, shall be liable in any action arising out of a determination not to render emergency services or care if reasonable care is exercised in determining the condition of the person, or in determining the appropriateness of the facilities, or the qualifications and availability of personnel to render these services consistent with this section;

(5) Community mental health center services, as defined in rules adopted by the commissioner pursuant to section 256B.04, subdivision 2, and provided by a community mental health center as defined in section 245.62, subdivision 2;

(6) Home health care services;

(7) Private duty nursing services;

(8) Physical therapy and related services;

(9) Dental services, excluding cast metal restorations;

(10) Laboratory and X-ray services;

(11) The following if prescribed by a licensed practitioner: drugs, eye-glasses, dentures, and prosthetic devices. The commissioner shall designate a formulary committee which shall advise the commissioner on the names of drugs for which payment shall be made, recommend a system for reimbursing providers on a set fee or charge basis rather than the present system, and develop methods encouraging use of generic drugs when they are less

expensive and equally effective as trademark drugs. The commissioner shall appoint the formulary committee members no later than 30 days following July 1, 1981. The formulary committee shall consist of nine members, four of whom shall be physicians who are not employed by the department of human services, and a majority of whose practice is for persons paying privately or through health insurance, three of whom shall be pharmacists who are not employed by the department of human services, and a majority of whose practice is for persons paying privately or through health insurance, a consumer representative, and a nursing home representative. Committee members shall serve two-year terms and shall serve without compensation. The commissioner may establish a drug formulary. Its establishment and publication shall not be subject to the requirements of the administrative procedure act, but the formulary committee shall review and comment on the formulary contents. Prior authorization may be required by the commissioner, with the consent of the drug formulary committee, before certain formulary drugs are eligible for payment. The formulary shall not include: drugs or products for which there is no federal funding; over-the-counter drugs, except for antacids, acetaminophen, family planning products, aspirin, insulin, prenatal vitamins, and vitamins for children under the age of seven; or any other over-the-counter drug identified by the commissioner, in consultation with the appropriate professional consultants under contract with or employed by the state agency, as necessary, appropriate and cost effective for the treatment of certain specified chronic diseases, conditions or disorders, and this determination shall not be subject to the requirements of chapter 14, the administrative procedure act; nutritional products, except for those products needed for treatment of phenylketonuria, hyperlysinemia, maple syrup urine disease, a combined allergy to human milk, cow milk, and soy formula, or any other childhood or adult diseases, conditions, or disorders identified by the commissioner as requiring a similarly necessary nutritional product; anorectics; and drugs for which medical value has not been established. Separate payment shall not be made for nutritional products for residents of long-term care facilities; payment for dietary requirements is a component of the per diem rate paid to these facilities. Payment to drug vendors shall not be modified before the formulary is established except that the commissioner shall not permit payment for any drugs which may not by law be included in the formulary, and the commissioner's determination shall not be subject to chapter 14, the administrative procedure act. The commissioner shall publish conditions for prohibiting payment for specific drugs after considering the formulary committee's recommendations.

The basis for determining the amount of payment shall be the actual acquisition costs of the drugs plus a fixed dispensing fee established by the commissioner. Actual acquisition cost includes quantity and other special discounts except time and cash discounts. Establishment of this fee shall not be subject to the requirements of the administrative procedure act. Whenever a generically equivalent product is available, payment shall be on the basis of the actual acquisition cost of the generic drug, unless the prescriber specifically indicates "dispense as written" on the prescription as required by section 151.21, subdivision 2.

Notwithstanding the above provisions, implementation of any change in the fixed dispensing fee which has not been subject to the administrative procedure act shall be limited to not more than 180 days, unless, during that time, the commissioner shall have initiated rulemaking through the administrative procedure act;

(12) Diagnostic, screening, and preventive services;

(13) Health care prepayment plan premiums and insurance premiums if paid directly to a vendor and supplementary medical insurance benefits under Title XVIII of the Social Security Act;

(14) Abortion services, but only if one of the following conditions is met:

(a) The abortion is a medical necessity. "Medical necessity" means (1) the signed written statement of two physicians indicating the abortion is medically necessary to prevent the death of the mother, and (2) the patient has given her consent to the abortion in writing unless the patient is physically or legally incapable of providing informed consent to the procedure, in which case consent will be given as otherwise provided by law;

(b) The pregnancy is the result of criminal sexual conduct as defined in section 609.342, clauses (c), (d), (e)(i), and (f), and the incident is reported within 48 hours after the incident occurs to a valid law enforcement agency for investigation, unless the victim is physically unable to report the criminal sexual conduct, in which case the report shall be made within 48 hours after the victim becomes physically able to report the criminal sexual conduct; or

(c) The pregnancy is the result of incest, but only if the incident and relative are reported to a valid law enforcement agency for investigation prior to the abortion;

(15) Transportation costs incurred solely for obtaining emergency medical care or transportation costs incurred by nonambulatory persons in obtaining emergency or nonemergency medical care when paid directly to an ambulance company, common carrier, or other recognized providers of transportation services. For the purpose of this clause, a person who is incapable of transport by taxicab or bus shall be considered to be nonambulatory;

(16) To the extent authorized by rule of the state agency, costs of bus or taxicab transportation incurred by any ambulatory eligible person for obtaining nonemergency medical care;

(17) Personal care attendant services provided by an individual, not a relative, who is qualified to provide the services, where the services are prescribed by a physician in accordance with a plan of treatment and are supervised by a registered nurse. Payments to personal care attendants shall be adjusted annually to reflect changes in the cost of living or of providing services by the average annual adjustment granted to vendors such as nursing homes and home health agencies; and

(18) *To the extent authorized by rule of the state agency, case management services to persons with serious and persistent mental illness;*

(19) *To the extent authorized by rule of the state agency, case management services to persons with brain injuries; and*

(20) Any other medical or remedial care licensed and recognized under state law unless otherwise prohibited by law, except licensed chemical dependency treatment programs or primary treatment or extended care treatment units in hospitals that are covered under Laws 1986, chapter 394, sections 8 to 20. The commissioner shall include chemical dependency services in the state medical assistance plan for federal reporting purposes,

but payment must be made under Laws 1986, chapter 394, sections 8 to 20.

Sec. 28. Minnesota Statutes 1986, section 256D.03, subdivision 4, is amended to read:

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

(1) outpatient services provided by a mental health center or clinic which is under contract with the county board and is certified under Minnesota Rules, parts 9520.0750 to 9520.0870;

(2) day treatment services provided under contract with the county board; and

(3) prescribed medications for persons who have been diagnosed as mentally ill as necessary to prevent more restrictive institutionalization.

(b) In order to contain costs, the commissioner of human services shall select vendors of medical care who can provide the most economical care consistent with high medical standards and shall where possible contract with organizations on a prepaid capitation basis to provide these services. The commissioner shall consider proposals by counties and vendors for prepaid health plans, competitive bidding programs, block grants, or other vendor payment mechanisms designed to provide services in an economical manner or to control utilization, with safeguards to ensure that necessary services are provided. Before implementing prepaid programs in counties with a county operated or affiliated public teaching hospital or a hospital or clinic operated by the University of Minnesota, the commissioner shall consider the risks the prepaid program creates for the hospital and allow the county or hospital the opportunity to participate in the program in a manner that reflects the risk of adverse selection and the nature of the patients served by the hospital, provided the terms of participation in the program are competitive with the terms of other participants considering the nature of the population served. Payment for services provided pursuant to this subdivision shall be as provided to medical assistance vendors of these services under section 256B.02, subdivision 8. The rates payable under this section must be calculated according to section 256.966, subdivision 2.

(c) The commissioner of human services may reduce payments provided under sections 256D.01 to 256D.21 and 261.23 in order to remain within the amount appropriated for general assistance medical care, within the following restrictions.

For the period July 1, 1985, to December 31, 1985, reductions below

the cost per service unit allowable under section 256.966, are permitted only as follows: payments for inpatient and outpatient hospital care provided in response to a primary diagnosis of chemical dependency or mental illness may be reduced no more than 30 percent; payments for all other inpatient hospital care may be reduced no more than 20 percent. Reductions below the payments allowable under general assistance medical care for the remaining general assistance medical care services allowable under this subdivision may be reduced no more than ten percent.

For the period January 1, 1986 to December 31, 1986, reductions below the cost per service unit allowable under section 256.966 are permitted only as follows: payments for inpatient and outpatient hospital care provided in response to a primary diagnosis of chemical dependency or mental illness may be reduced no more than 20 percent; payments for all other inpatient hospital care may be reduced no more than 15 percent. Reductions below the payments allowable under general assistance medical care for the remaining general assistance medical care services allowable under this subdivision may be reduced no more than five percent.

For the period January 1, 1987 to June 30, 1987, reductions below the cost per service unit allowable under section 256.966 are permitted only as follows: payments for inpatient and outpatient hospital care provided in response to a primary diagnosis of chemical dependency or mental illness may be reduced no more than 15 percent; payments for all other inpatient hospital care may be reduced no more than ten percent. Reductions below the payments allowable under medical assistance for the remaining general assistance medical care services allowable under this subdivision may be reduced no more than five percent.

There shall be no copayment required of any recipient of benefits for any services provided under this subdivision. A hospital receiving a reduced payment as a result of this section may apply the unpaid balance toward satisfaction of the hospital's bad debts.

(d) Any county may, from its own resources, provide medical 5 payments for which state payments are not made.

(e) Chemical dependency services that are reimbursed under Laws 1986, chapter 394, sections 8 to 20, must not be reimbursed under general assistance medical care.

Sec. 29. Minnesota Statutes 1986, section 256E.12, subdivision 3, is amended to read:

Subd. 3. The commissioner shall allocate grants under this section to finance up to 90 percent of each county's costs for services for chronically mentally ill persons. The commissioner shall promulgate emergency and permanent rules to govern grant applications, approval of applications, allocation of grants, and maintenance of financial statements by grant recipients. The commissioner shall require collection of data and periodic reports as the commissioner deems necessary to demonstrate the effectiveness of the services in helping chronically mentally ill persons remain and function in their own communities. The commissioner shall report to the legislature no later than January 15, 1983 on the effectiveness of the experimental program and shall make recommendations regarding making this program an integral part of the social development programs administered by counties. The experimental program shall expire no later than June 30, 1987 1988.

Sec. 30. [REPEALER.]

Minnesota Statutes 1986, section 245.69, subdivision 1a, is repealed effective the day following final enactment. Minnesota Statutes 1986, sections 245.713, subdivisions 1 and 3; 245.73; and 256E.12, are repealed effective July 1, 1988.

Sec. 31. [EFFECTIVE DATE.]

Sections 1 to 18, 23 to 26, and 29 are effective the day following final enactment. Sections 19 to 22, and 27 to 31 are effective July 1, 1988."

Delete the title and insert:

"A bill for an act relating to human services; mandating a comprehensive system of mental health services; amending Minnesota Statutes 1986, sections 245.713, subdivision 2; 256B.02, subdivision 8; 256D.03, subdivision 4; and 256E.12, subdivision 3; proposing coding for new law in Minnesota Statutes, chapter 245; repealing Minnesota Statutes 1986, sections 245.69, subdivision 1a; 245.713, subdivisions 1 and 3; 245.73; and 256E.12."

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

H.F. No. 294: A bill for an act relating to intoxicating liquor; authorizing counties to issue temporary on-sale licenses; amending Minnesota Statutes 1986, section 340A.404, subdivision 10.

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

Page 1, after line 7, insert:

"Section 1. Minnesota Statutes 1986, section 340A.308, is amended to read:

340A.308 [PROHIBITED TRANSACTIONS.]

(a) No brewer or malt liquor wholesaler may directly or indirectly, or through an affiliate or subsidiary company, or through an officer, director, stockholder, or partner:

- (1) give, or lend money, credit, or other thing of value to a retailer;
- (2) give, lend, lease, or sell furnishing or equipment to a retailer;
- (3) have an interest in a retail license; or
- (4) be bound for the repayment of a loan to a retailer.

(b) This section does not prohibit a manufacturer or wholesaler from:

(1) furnishing, lending, or renting to a retailer outside signs, of a cost of up to \$100 excluding installation and repair costs;

(2) furnishing, lending, or renting to a retailer inside signs and other promotional material, of a cost of up to \$100 in a year;

(3) furnishing to or maintaining for a retailer equipment for dispensing malt liquor, including tap trailers, cold plates and other dispensing equipment, of a cost of up to \$100 per tap in a year;

(4) using or renting property owned continually since November 1, 1933,

for the purpose of selling intoxicating or nonintoxicating malt liquor at retail; or

(5) extending customary commercial credit to a retailer in connection with a sale of nonalcoholic beverages only, *or engaging in cooperative advertising agreements with a retailer in connection with the sale of non-alcoholic beverages only.*"

Page 2, after line 7, insert:

"Sec. 3. Minnesota Statutes 1986, section 340A.405, is amended by adding a subdivision to read:

Subd. 4. [TEMPORARY OFF-SALE LICENSES; WINE AUCTIONS.]

(a) The governing body of a city may issue a temporary license for the off-sale of wine at an auction with the approval of the commissioner. A license issued under this subdivision authorizes the sale of only vintage wine of a brand and vintage that is not commonly being offered for sale by any wholesaler in Minnesota. The license may authorize the off-sale of wine for not more than three consecutive days provided not more than 600 cases of wine are sold at any auction. The licenses are subject to the terms, including license fee, imposed by the issuing city. Licenses issued under this subdivision are subject to all laws and ordinances governing the sale of intoxicating liquor except section 340A.409 and those laws and ordinances which by their nature are not applicable.

(b) As used in the subdivision, "vintage wine" means bottled wine which is at least ten years old."

Page 2, line 9, delete "Section 1" and insert "This act"

Renumber the sections in sequence

Amend the title as follows:

Page 1, line 2, after the semicolon, insert "permitting certain transactions by brewers and wholesalers;"

Page 1, line 3, after the semicolon, insert "authorizing cities to issue temporary off-sale licenses for the sale of vintage wine at auctions;"

Page 1, line 4, delete "section" and insert "sections 340A.308;"

Page 1, line 5, before the period, insert "; and 340A.405, by adding a subdivision"

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

Mr. Solon from the Committee on Commerce, to which was referred

H.F. No. 450: A bill for an act relating to commerce; regulating the advertisement of interest rates of investment products; proposing coding for new law in Minnesota Statutes, chapter 45.

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

Delete everything after the enacting clause and insert:

"Section 1. [45.025] [ADVERTISEMENT OF INTEREST RATES.]

Subdivision 1. [DEFINITIONS.] For the purposes of this section only,

the following terms have the meanings given them:

(a) "Advertisement" includes:

(1) printed or published material, audio visual material, and descriptive literature of an issuer or agent used in direct mail, newspapers, magazines, other periodicals, radio scripts, television scripts, billboards, and other similar displays, excluding advertisements prepared for the sole purpose of obtaining employees, agents, or agencies;

(2) descriptive literature and sales aids of all kinds issued by an issuer or agent for presentation to members of the public, including but not limited to circulars, leaflets, booklets, depictions, illustrations, and form letters;

(3) prepared sales talks, presentations, and materials for use by issuers and agents and representations made by issuers and agents in accordance with these talks, presentations, and materials; and

(4) statements, written or oral, by an agent or issuer.

(b) "Agent" is a person who effects or attempts to effect or assist in the purchase or sale of an investment product.

(c) "Commissioner" means the commissioner of commerce.

(d) "Effective annual yield" is the annualized income expressed as a simple interest rate per annum based on the initial investment principal.

(e) "Effective net annual yield" means the effective annual yield, based on a hypothetical \$1,000 investment, minus any annual fee or similar regular periodic charges.

(f) "Investment product" includes but is not limited to:

(1) certificate of deposits, deposits, or fiduciary funds entrusted to banks, savings associations, trust companies, credit unions, savings banks, industrial loan and thrift companies, and any other financial institution whether or not licensed by or registered with the department of commerce;

(2) annuities, endowment policies, or other life insurance products;

(3) securities, including: a note; stock; treasury stock; bond; debenture; evidence of indebtedness; certificate of interest or participation in any profit sharing agreement; collateral trust certificate; preorganizational certificate or subscription; transferrable shares; investment contract, including but not limited to metals, gems, and coins; voting trust certificate; certificate of deposit for a security; certificate of interest or participation in an oil, gas, or mining right, title or lease, or in payments out of production under the right, title or lease; or, in general, any interest or instrument commonly known as a security, or any certificate of interest or participation in, temporary or interim certificate for, receipt for guarantee of, or warrant or right to subscribe to or purchase, any of the securities listed in this clause.

(g) "Issuer" includes but is not limited to: banks, savings associations, trust companies, credit unions, savings banks, industrial loan and thrift companies, insurance companies, investment companies, trusts, or a person who issues an investment product.

(h) "Person" means an individual, corporation, a partnership, an association, a joint stock company, a trust where the interests of the beneficiaries are evidenced by a security, an unincorporated organization, a

government, a political subdivision of a government, or any other entity.

Subd. 2. [GENERAL RESTRICTION.] A person may not advertise the interest rate of an investment product unless the effective net annual yield is disclosed in an equally prominent manner.

The name and address of the issuer and any prepayment expense, surrender charge, or withdrawal penalty charged by the issuer must also be disclosed in a prominent manner. If the expense, charge, or penalty varies according to the length of time the product is held, the advertisement must disclose the expense, fee, or penalty imposed if surrendered or terminated within one year.

Subd. 3. [VARIABLE RATES.] With the exception of life insurance policy and annuity contract illustrations based upon a prospective purchaser's age and sex that do not provide a comparison with another policy or contract, an investment product whose interest rate varies according to the income or earnings of the issuer may not advertise projections of effective annual yield for a period exceeding one year. In addition, the advertisement must include in a prominent manner substantially the following statement:

"The effective annual yield or total return will fluctuate along with market and other economic conditions. Past performance does not guarantee future results."

Subd. 4. [PAST PERFORMANCE.] If the advertisement refers to the past performance of an investment product, the advertisement must disclose the effective net annual yield for the one-year period immediately preceding the most recent quarter. "Quarters" for the purposes of this subdivision end on March 31, June 30, September 30, and December 31.

Subd. 5. [COMPARATIVE ILLUSTRATIONS.] Illustrations comparing a life insurance policy or annuity contract of one company with a life insurance policy or an annuity contract of another company must clearly disclose with equal prominence for each policy or contract:

- (1) the guaranteed rate of interest paid on the cash value;
- (2) the current dividend scale or current rate of interest paid on the cash value;
- (3) the nonguaranteed nature of any current dividends, current interest rates, charges, or other fees applied to the policy or contract, including the issuer's rights to alter any of these factors;
- (4) any limitations on the crediting of dividends or interest;
- (5) the frequency and timing by which dividends or the current interest rate is determined; and
- (6) the net cash surrender value at all ages and contract durations illustrated.

Subd. 6. [WAIVER.] The commissioner may by rule or order waive or defer implementation of the provisions of subdivisions 2 to 5 with regard to any person or persons who comply with similar restrictions imposed by the Securities and Exchange Commission or other regulatory agency.

Subd. 7. [MISDEMEANOR.] A person who willfully violates a provision of this section, knowing that the advertisement was false or misleading in any material respect, may be fined not more than \$700 or imprisoned not

more than 90 days, or both. Each act in violation of this section constitutes a separate offense and a prosecution or conviction for any violation of this section does not bar prosecution or conviction for another violation under this section.

Subd. 8. [CIVIL REMEDY.] *A person violating this section is liable to a purchaser of the investment product. The purchaser may sue either in equity for rescission upon tender of the investment product or at law for damages if the purchaser no longer owns the investment product. In an action for rescission, the purchaser is entitled to recover the consideration paid for the investment product, together with interest at the legal rate, costs, and reasonable attorney fees, less the amount of any income received on the investment product. In an action at law, damages are the consideration paid for the investment product together with interest at the legal rate to the date of disposition, costs, and reasonable attorney fees, less the value of the investment product at the date of disposition. If the advertisement advertises an investment product whose interest rate varies according to the earnings or income of the issuer and if the advertisement projects the accumulated earnings for a period longer than one year, the issuer and agent are jointly and severally liable to the purchaser for the difference in the principal and interest received by the purchaser and the principal and interest as projected in the advertisement.*

Subd. 9. [DENIAL, SUSPENSION, OR REVOCATION.] *The commissioner may by order deny, suspend, or revoke an agent's or issuer's license or may censure the licensee if the commissioner finds that: (1) the order is in the public interest; (2) the agent or issuer violated any provision of this section; and (3) the agent or issuer is licensed by the department."*

Amend the title as follows:

Page 1, line 3, after the semicolon, insert "providing penalties;"

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

Mr. Frank from the Committee on Economic Development and Housing, to which was referred

S.F. No. 1249: A bill for an act relating to small business; modifying the definition of small business; amending Minnesota Statutes 1986, section 645.445, subdivisions 2 and 3.

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 16B.19, subdivision 6, is amended to read:

Subd. 6. [CONTRACTS IN EXCESS OF \$200,000; SET-ASIDE.] *The commissioner as a condition of awarding state procurements for construction contracts or approving contracts for consultant, professional, or technical services pursuant to section 16B.17 in excess of \$200,000 shall require that at least ten percent of the contract award to a prime contractor be subcontracted to a business owned and operated by a socially or economically disadvantaged person or persons or that at least ten percent of the contract award be expended in purchasing materials or supplies from said*

person or persons. If there is no socially or economically disadvantaged person or persons or other small businesses able to perform the subcontract or to provide the supplies or materials, the construction contract or contract for consultant, professional, or technical services may be awarded notwithstanding the ten percent requirement provided that the ten percent requirement is made up in other such contracts awarded or to be awarded by the same agency. Any subcontracting or purchasing of supplies and materials pursuant to this subdivision may not be included in determining the total amount of awards required by subdivisions 1, 2, and 5. In the event small businesses owned and operated by socially and economically disadvantaged persons are unable to perform ten percent of the prime contract award, the commissioner shall require that other small businesses perform at least ten percent of the prime contract award. The commissioner may determine that small businesses owned and operated by socially and economically disadvantaged persons are unable to perform at least ten percent of the prime contract award prior to the advertising for bids. Each construction contractor bidding on a project over \$200,000 shall submit with the bid a list of the businesses owned and operated by socially or economically disadvantaged persons that are proposed to be utilized on the project with a statement indicating the portion of the total bid to be performed by each business. The commissioner shall reject any bid to which this subdivision applies that does not contain this information. Prime contractors receiving construction contract awards in excess of \$200,000 shall furnish to the commissioner the name of each business owned and operated by a socially or economically disadvantaged person or persons or other small business that is performing work or supplying supplies and materials on the prime contract and the dollar amount of the work performed or to be performed or the supplies and materials to be supplied. *Once the contract has been awarded, the prime contractor must use the socially and economically disadvantaged subcontractors proposed to be utilized on the project, unless the subcontractors are unable to perform in accordance with the award.*

This subdivision does not apply to prime contractors that are themselves small businesses owned and operated by socially or economically disadvantaged persons, as duly certified pursuant to section 16B.22."

Page 1, line 20, delete "\$2,000,000" and insert "\$2,500,000"

Page 2, line 1, delete "\$2,000,000" and insert "\$2,500,000"

Page 2, after line 2, insert:

"Sec. 4. [EFFECTIVE DATE.]

Sections 1 to 3 are effective the day following final enactment."

Renumber the sections in sequence

Amend the title as follows:

Page 1, line 2, after the semicolon, insert "requiring use of certain socially and economically disadvantaged subcontractors;"

Page 1, line 4, delete "section" and insert "sections 16B.19, subdivision 6; and"

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

Mr. Frank from the Committee on Economic Development and Housing, to which was referred

S.F. No. 993: A bill for an act relating to housing; authorizing the Minnesota housing finance agency to make grants to municipalities for the provision of housing for very low income persons; proposing coding for new law in Minnesota Statutes, chapter 462A.

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 462A.05, is amended by adding a subdivision to read:

Subd. 25. [GRANTS FOR HOUSING FOR VERY LOW INCOME PERSONS LIVING ALONE.] The agency may make grants for residential housing to be used by very low income persons living alone whose annual gross income does not exceed 150 percent of the poverty line as updated by the United States office of management and budget. The grants may be made to home rule charter or statutory cities, joint powers boards established by two or more home rule charter or statutory cities, housing and redevelopment authorities created under sections 462.415 to 462.705, or nonprofit entities as defined by the agency. The occupants of the residential housing must be offered a written lease that complies with section 325G.31, offers the occupants the option to renew, and prohibits eviction of an occupant without good cause. Grants under this subdivision shall not exceed 50 percent of the development costs for the residential housing, and shall not be made for any residential housing that requires the occupants to accept board as well as lodging. In making grants, the agency shall determine the circumstances, terms, and conditions under which all or part of the grant will be repaid and the appropriate security if repayment is required.

Sec. 2. Minnesota Statutes 1986, section 462A.21, is amended by adding a subdivision to read:

Subd. 4k. [HOUSING DEVELOPMENT FUND.] The agency may make grants for residential housing for very low income persons under section 1 from funds specifically appropriated by the legislature for that purpose and may pay the costs and expenses for the development and operation of the program.

Sec. 3. [APPROPRIATION.]

\$_____ is appropriated from the general fund to the housing development fund created in section 462A.20 for the purposes of sections 1 and 2."

Delete the title and insert:

"A bill for an act relating to housing; authorizing the Minnesota housing finance agency to make grants for the provision of housing for very low income persons; appropriating money; amending Minnesota Statutes 1986, sections 462A.05, by adding a subdivision; and 462A.21, by adding a subdivision."

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

Mr. Frank from the Committee on Economic Development and Housing, to which was referred

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.

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

Delete everything after the enacting clause and insert:

"Section 1. [116J.941] [COUNCIL ON PRODUCTIVITY AND QUALITY.]

Subdivision 1. [MEMBERSHIP] The Minnesota council on productivity and quality consists of the commissioner of energy and economic development and eight members, appointed from the general public to four-year terms, who have backgrounds in or are representatives of management, labor, small business, engineering, or business-management education. The governor shall appoint four members, the speaker of the house of representatives shall appoint two members, and the senate majority leader shall appoint four members. The council shall elect two co-chairs from its membership, except that the commissioner of energy and economic development may not serve as a co-chair. Compensation of public members for expenses is as provided for members of advisory task forces under section 15.059, subdivision 6.

Subd. 2. [STAFF] The council may employ an executive director. Subject to the approval of the council, the executive director may employ employees necessary to carry out the council's policies. Council employees, including the executive director, are not state employees, but, at the option of the council, may participate in the state unclassified employees retirement plan, the state deferred compensation plan, and the insurance plans for employees covered by section 43A.18, subdivision 3.

Sec. 2. [116J.942] [COUNCIL ACTIVITIES.]

Subdivision 1. [PUBLIC INFORMATION.] The council shall inform the business community, organized labor, and the general public of the importance of productivity and quality in the workplace to the state and its economy. To do so, the council may use advertisements, press releases, public service announcements, seminars, workshops, or any other means the council deems practical and effective.

Subd. 2. [RESEARCH.] The council shall conduct research into education programs relating to productivity and quality, the effectiveness of those programs, new production technologies, methods of quality control, innovative strategies for marketing goods and services, issues relating to the quality of the workplace, and developments in labor-management relations. The council shall establish a system for receiving and responding to requests for information in those areas.

Subd. 3. [MATCHING FUNDS.] The council shall seek money or in-kind services from the private sector to match money appropriated by the state for its activities. The council may accept gifts, grants, or services from individuals, firms, corporations, foundations, or other organizations.

Subd 4. [CONSULTANTS.] The council shall compile a list of consultants experienced in productivity and quality techniques and education and shall, upon request, provide the names of appropriately qualified con-

sultants to businesses or labor organizations. The list may include the names of individuals, businesses, or organizations willing to provide consulting services without fee to clients selected by the council as an in-kind grant to the council. The council may establish a grant program to assist businesses or labor organizations in need of consulting services, but unable to pay a consulting fee and for which no in-kind grant of services is available.

Subd. 5. [CONTRACT FOR RESEARCH AND MONITORING SERVICES.] The council shall contract with the commissioner of energy and economic development to investigate and monitor developments in productivity and quality in the state and the nation. The investigation may examine the effect of productivity and quality improvements on the state's economy and seek to identify kinds of businesses that could especially benefit from new productivity and quality control techniques.

Subd. 6. [REPORT TO GOVERNOR AND LEGISLATURE.] By January 15 of each odd-numbered year, the council shall report to the governor and the legislature on its activities in the preceding two years. The report must include:

- (1) the means the council used to educate business, labor, and the public on the importance of productivity and quality;
- (2) the number of businesses and labor organizations the council helped to find appropriately qualified consultants;
- (3) the amount of private funds raised to help support the council and its activities;
- (4) a summary of its research and of the results of the investigating and monitoring services provided for it under contract by the commissioner of energy and economic development;
- (5) recommendations for changes in state policies that could improve productivity and quality in the state; and
- (6) a recommendation as to whether the state should continue to appropriate money for the council's activities.

Sec. 3. [INITIAL APPOINTMENTS.]

Notwithstanding section 1, the governor shall make initial appointments to the council as follows: two members to four-year terms and two members to two-year terms. If the position of one of the initial appointees becomes vacant, the governor shall appointment a replacement to serve the remainder of the term for that position.

Sec. 4. [APPROPRIATION.]

§_____ is appropriated from the general fund to the commissioner of energy and economic development for use by the Minnesota council on productivity and quality in carrying out sections 1 and 2. \$50,000 of the appropriation is available immediately after the appointment of the council. The commissioner shall place the remainder in a separate account and release money from that account to the council only as an equal match for nonstate gifts and grants verified by the commissioner. Up to three-fifths of the required nonstate match may be the value, as determined by the council, of consulting services provided to businesses or labor organizations through the council."

Delete the title and insert:

"A bill for an act relating to economic development; establishing the Minnesota council on productivity and quality; assigning its powers and duties; appropriating money; proposing coding for new law in Minnesota Statutes, chapter 116J."

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

Mr. Frank from the Committee on Economic Development and Housing, to which was referred

S.F. No. 1437: A bill for an act relating to economic development; providing for review of state-funded scientific and technologically related research; creating a division of science and technology within the department of energy and economic development; creating research review committees and providing for their powers and duties; amending Minnesota Statutes 1986, section 116J.01, subdivision 3; proposing coding for new law in Minnesota Statutes, chapter 116J; repealing Minnesota Statutes 1986, section 116J.94.

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 116J.01, subdivision 3, is amended to read:

Subd. 3. [DEPARTMENTAL ORGANIZATION.] The commissioner shall organize the department as provided in section 15.06. The department shall be organized into four divisions, *one of which shall be designated the energy division, the community development division, the economic development division, and the science and technology division the financial management division*; and the office of tourism. Each division and office is responsible for administering the duties and functions assigned to it by law. When the duties of the divisions or office are not allocated by law, the commissioner may establish and revise the assignments of each division and office. Each division shall be under the direction of a *deputy* *an assistant* commissioner in the unclassified service. The office of tourism is under the direction of a director of tourism in the unclassified service. The governor shall appoint the director of tourism *and the assistant commissioner for science and technology*.

Sec. 2. [116J.970] [SCIENCE AND TECHNOLOGY RESEARCH DIVISION.]

Subdivision 1. [DUTIES.] The science and technology division shall:

(1) provide assistance to the committee on science and technology research and development established in section 3;

(2) prepare and deliver to the legislature every January 15, a science and technology annual report that shall contain:

(i) a list of the scientifically and technologically related research and development projects and development activities funded by a grant or loan of state money;

(ii) guidelines that the legislature may use in allocating state grant or

loan money for scientifically and technologically related research and development projects, to include assessments of emerging technologies and those technologies that provide significant promise for the development of job-creating businesses; and

(iii) an analysis of the efficacy and completeness of the decentralized research peer review processes mandated in section 3, subdivision 6, with special emphasis on whether or not scientifically and technologically related research and development projects in Minnesota are in conformance with the guidelines established in item (ii), and whether or not the scientifically and technologically related research and development projects have or will result in creating scientifically and technologically related jobs;

(3) keep a current roster of technology intensive businesses in the state;

(4) collect and disseminate information on financial, technical, marketing, management, and other services available to technology intensive small and emerging businesses, including potential sources of debt and equity capital;

(5) review the technological development potential of various regions of the state and cooperate with and make recommendations to the legislature, state agencies, local governments, local technology development agencies, the federal government, private businesses, and individuals for the realization of the development potential;

(6) sponsor and conduct conferences and studies, collect and disseminate information, and issue periodic reports relating to scientifically and technologically related research and development, and education in the state and represent the state at appropriate interstate and national conferences; and

(7) take other action as assigned by the commissioner.

Sec. 3. [116J.971] [COMMITTEE ON SCIENCE AND TECHNOLOGY RESEARCH AND DEVELOPMENT.]

Subdivision 1. [COMMITTEE CREATED; MEMBERSHIP] There is created the permanent committee on science and technology research and development. The chair and eight members of the committee shall be appointed by the governor. The chair will serve for a term of four years. The members of the committee appointed by the governor, except for the chair, have terms of six years. One member of the committee shall be appointed by the speaker of the house of representatives at the beginning of each biennium to serve for two years. One member of the committee shall be appointed by the minority leader of the house of representatives at the beginning of each biennium to serve for two years. One member of the committee shall be appointed by the majority leader of the senate at the beginning of each biennium to serve for two years. One member of the committee shall be appointed by the minority leader of the senate at the beginning of each biennium to serve for two years. At least one member must be appointed from each of the regions established in subdivision 2.

Subd. 2. [RURAL REGION REPRESENTATION.] The department of energy and economic development shall divide the part of the state located outside of the metropolitan area as defined in section 473.121, subdivision 2, into six regions. A region's boundaries must be coterminous with the boundaries of one or more of the development regions established under

section 462.385.

Subd. 3. [QUALIFICATIONS AND DUTIES OF THE PERMANENT COMMITTEE.] *The permanent committee on science and technology research and development shall be comprised of persons qualified in at least one of the five following areas: economic development, academic and applied research, the administration of research, the review of research processes, and the management and development of technology intensive companies. The duties of the permanent committee are to:*

(i) advise upon and approve by a majority vote the guidelines required by section 2, clause (2), item (ii);

(ii) advise the assistant commissioner for science and technology on the preparation of the analysis required by section 2, clause (2), item (iii);

(iii) approve the assignment of ad hoc advisory committees on science and technology research and development as needed; and

(iv) review and comment upon, if the committee considers it to be necessary, the reports of the ad hoc advisory committees and forward the reports to the assistant commissioner for science and technology.

Subd. 4. [AD HOC ADVISORY COMMITTEES.] *To perform the acts required by section 2, clause (2), the permanent committee on science and technology research and development may, from time to time, approve the creation and use of ad hoc advisory committees composed of 3 to 15 members each. Members of the permanent committee on science and technology research and development may be ad hoc committee members, but members of the permanent committee may not be a majority of an ad hoc committee.*

Subd. 5. [COMPENSATION.] *Members of the permanent committee on science and technology research and development and of the ad hoc advisory committees shall receive no compensation but shall be paid their expenses under section 15.059, subdivision 6.*

Subd. 6. [PEER REVIEW PLANS.] *A state agency, board, commission, authority, or institution that funds scientifically and technologically related research shall establish a peer review system to evaluate the research. The permanent committee on science and technology research and development shall recommend guidelines for establishing effective peer review. An agency, board, commission, authority, or institution that funds scientifically and technologically related research shall, at least biennially, present to the permanent committee or to ad hoc committees, as determined by the permanent committee, a review and evaluation of the peer review process used in that organization.*

Subd. 7. [AUTHORITY TO PERFORM REQUESTED EVALUATIONS.] *The governor, commissioner or assistant commissioner for science and technology, speaker of the house of representatives, house of representatives minority leader, senate majority leader, senate minority leader, chair of the house of representatives appropriations committee, chair of the senate finance committee, or a member of the legislature considering the introduction or approval of legislation containing funding for scientifically and technologically related research and development, may request the permanent committee on science and technology research and development to evaluate a loan or grant made or to be made or the proposed legislation for funding scientifically and technologically related research and devel-*

opment to determine (1) whether it complies with the guidelines required by section 2, clause (2), item (ii); (2) whether it is technically feasible; and (3) for development proposals, whether the proposal appears to have the potential for economic development. Ad hoc committees may be appointed by the permanent committee to perform these reviews.

Subd. 8. [AUTHORITY FOR REVIEW AND COMMENT UPON RESEARCH AND DEVELOPMENT PROGRAMS.] Each agency, board, commission, authority or institution receiving an appropriation for the funding of scientifically and technologically related research and development shall notify the permanent committee within 30 days of making a loan or grant for scientifically or technologically related research and development. The notice shall contain a copy of the grant or loan application and any contract or agreement under which the loan or grant was made. The permanent committee on science and technology research and development shall, at least once each biennium, review scientifically and technologically related research funded by a state agency, board, commission, authority, or institution to assess whether or not the research and development is conducted in accordance with the guidelines required by section 2, clause (2), item (ii). The committee's assessment shall be sent to the legislature on or before January 15 of every odd-numbered year.

Subd. 9. [STAFF APPOINTMENTS.] The assistant commissioner for science and technology shall appoint those staff members in the classified and unclassified services necessary to perform the functions of the science and technology division. The assistant commissioner shall appoint in the unclassified service an executive director of the permanent committee on science and technology research and development, who shall report to the assistant commissioner. The executive director must hold a post-baccalaureate degree in scientific or technologically related studies, or demonstrate experience in technological policy formulation.

Sec. 4. [RESEARCH LINE ITEMS REQUIRED.]

The commissioner of finance shall establish budget line items that specifically identify funds used for scientifically and technologically related research and development.

Sec. 5. [INITIAL APPOINTMENTS.]

Notwithstanding section 3, subdivision 1, the governor shall make the following initial appointments: the first chair to serve from July 1, 1987, to January 1, 1990; three members to serve from July 1, 1987, to January 1, 1993; three members to serve from July 1, 1987, to January 1, 1991; and two members to serve from July 1, 1987, to January 1, 1989.

Sec. 6. [REPEALER.]

Minnesota Statutes 1986, section 116J.94, is repealed."

Delete the title and insert:

"A bill for an act relating to economic development; providing for review of state-funded scientific and technologically related research; creating a division of science and technology within the department of energy and economic development; creating a committee on science and technology research and development and providing for its powers and duties; amending Minnesota Statutes 1986, section 116J.01, subdivision 3; proposing coding for new law in Minnesota Statutes, chapter 116J; repealing Minnesota Statutes 1986, section 116J.94."

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

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

S.F. No. 971: A bill for an act relating to public finance; modifying and extending means of financing operations of local government and certain nonprofit institutions; providing an income tax exemption for interest earned on certain governmental obligations; amending Minnesota Statutes 1986, sections 124.76, subdivision 2; 290.01, subdivisions 20, 20a, and 20b; 290.091, subdivision 2; 373.01, by adding a subdivision; 400.101; 429.091, by adding a subdivision; 462.429; 462.445, subdivision 4; 462.461, subdivision 4; 462.555; 465.71; 466.06; 471.981, subdivisions 1, 4, and by adding subdivisions; 473.811, subdivision 2; 474.02, subdivision 1d; 475.51, subdivision 3; 475.52, subdivision 3; 475.54, subdivision 1, and by adding subdivisions; 475.55, subdivisions 1, 2, 3, 4, 6, 7, and by adding a subdivision; 475.56; 475.60, subdivision 2; 475.66, subdivision 3; and 475.67, subdivisions 3 and 12; proposing coding for new law in Minnesota Statutes, chapters 116M, 136A, 471, and 475; repealing Minnesota Statutes 1986, sections 475.55, subdivision 5; and 475.67, subdivision 11.

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

Pages 1 to 4, delete sections 1 to 5

Pages 5 to 20, delete sections 7 to 21 and insert:

"Sec. 2. Minnesota Statutes 1986, section 275.50, subdivision 5, is amended to read:

Subd. 5. Notwithstanding any other law to the contrary for taxes levied in 1983 payable in 1984 and subsequent years, "special levies" means those portions of ad valorem taxes levied by governmental subdivisions to:

(a) satisfy judgments rendered against the governmental subdivision by a court of competent jurisdiction in any tort action, or to pay the costs of settlements out of court against the governmental subdivision in a tort action when substantiated by a stipulation for the dismissal of the action filed with the court of competent jurisdiction and signed by both the plaintiff and the legal representative of the governmental subdivision, but only to the extent of the increase in levy for such judgments and out of court settlements over levy year 1970, taxes payable in 1971;

(b) pay the costs of complying with any written lawful order initially issued prior to January 1, 1977 by the state of Minnesota, or the United States, or any agency or subdivision thereof, which is authorized by law, statute, special act or ordinance and is enforceable in a court of competent jurisdiction, or any stipulation agreement or permit for treatment works or disposal system for pollution abatement in lieu of a lawful order signed by the governmental subdivision and the state of Minnesota, or the United States, or any agency or subdivision thereof which is enforceable in a court of competent jurisdiction. The commissioner of revenue shall in consultation with other state departments and agencies, develop a suggested form for use by the state of Minnesota, its agencies and subdivisions in issuing orders pursuant to this subdivision;

(c) pay the costs to a governmental subdivision for their minimum re-

quired share of any program otherwise authorized by law for which matching funds have been appropriated by the state of Minnesota or the United States, excluding the administrative costs of public assistance programs, to the extent of the increase in levy over the amount levied for the local share of the program for the taxes payable year 1971. This clause shall apply only to those programs or projects for which matching funds have been designated by the state of Minnesota or the United States on or before September 1, of the previous year and only when the receipt of these matching funds is contingent upon the initiation or implementation of the project or program during the year in which the taxes are payable or those programs or projects approved by the commissioner;

(d) pay the costs not reimbursed by the state or federal government, of payments made to or on behalf of recipients of aid under any public assistance program authorized by law, and the costs of purchase or delivery of social services. Except for the costs of general assistance as defined in section 256D.02, subdivision 4, general assistance medical care under section 256D.03 and the costs of hospital care pursuant to section 261.21, the aggregate amounts levied pursuant to this clause are subject to a maximum increase of 18 percent over the amount levied for these purposes in the previous year;

(e) pay the costs of principal and interest on bonded indebtedness *except on bonded indebtedness issued under sections 13 to 16* or to reimburse for the amount of liquor store revenues used to pay the principal and interest due in the year preceding the year for which the levy limit is calculated on municipal liquor store bonds;

(f) pay the costs of principal and interest on certificates of indebtedness, except tax anticipation or aid anticipation certificates of indebtedness, issued for any corporate purpose except current expenses or funding an insufficiency in receipts from taxes or other sources or funding extraordinary expenditures resulting from a public emergency; and to pay the cost for certificates of indebtedness issued pursuant to sections 298.28 and 298.282;

(g) fund the payments made to the Minnesota state armory building commission pursuant to section 193.145, subdivision 2, to retire the principal and interest on armory construction bonds;

(h) provide for the bonded indebtedness portion of payments made to another political subdivision of the state of Minnesota;

(i) pay the amounts required to compensate for a decrease in manufactured homes property tax receipts to the extent that the governmental subdivision's portion of the total levy in the current levy year, pursuant to section 274.19, subdivision 8, as amended, is less than the distribution of the manufactured homes tax to the governmental subdivision pursuant to Minnesota Statutes 1969, section 273.13, subdivision 3, in calendar year 1971;

(j) pay the amounts required, in accordance with section 275.075, to correct for a county auditor's error of omission but only to the extent that when added to the preceding year's levy it is not in excess of an applicable statutory, special law or charter limitation, or the limitation imposed on the governmental subdivision by sections 275.50 to 275.56 in the preceding levy year;

(k) pay amounts required to correct for an error of omission in the levy certified to the appropriate county auditor or auditors by the governing

body of a city or town with statutory city powers in a levy year, but only to the extent that when added to the preceding year's levy it is not in excess of an applicable statutory, special law or charter limitation, or the limitation imposed on the governmental subdivision by sections 275.50 to 275.56 in the preceding levy year;

(l) pay the increased cost of municipal services as the result of an annexation or consolidation ordered by the Minnesota municipal board but only to the extent and for the levy years as provided by the board in its order pursuant to section 414.01, subdivision 15. Special levies authorized by the board shall not exceed 50 percent of the levy limit base of the governmental subdivision and may not be in effect for more than three years after the board's order;

(m) pay the increased costs of municipal services provided to new private industrial and nonresidential commercial development, to the extent that the extension of such services are not paid for through bonded indebtedness or special assessments, and not to exceed the amount determined as follows. The governmental subdivision may calculate the aggregate of:

(1) the increased expenditures necessary in preparation for the delivering of municipal services to new private industrial and nonresidential commercial development, but limited to one year's expenditures one time for each such development;

(2) the amount determined by dividing the overall levy limitation established pursuant to sections 275.50 to 275.56, and exclusive of special levies and special assessments, by the total taxable value of the governmental subdivision, and then multiplying this quotient times the total increase in assessed value of private industrial and nonresidential commercial development within the governmental subdivision. For the purpose of this clause, the increase in the assessed value of private industrial and nonresidential commercial development is calculated as the increase in assessed value over the assessed value of the real estate parcels subject to such private development as most recently determined before the building permit was issued. In the fourth levy year subsequent to the levy year in which the building permit was issued, the increase in assessed value of the real estate parcels subject to such private development shall no longer be included in determining the special levy.

The aggregate of the foregoing amounts, less any costs of extending municipal services to new private industrial and nonresidential commercial development which are paid by bonded indebtedness or special assessments, equals the maximum amount that may be levied as a "special levy" for the increased costs of municipal services provided to new private industrial and nonresidential commercial development. In the levy year following the levy year in which the special levy made pursuant to this clause is discontinued, one-half of the amount of that special levy made in the preceding year shall be added to the permanent levy base of the governmental subdivision;

(n) recover a loss or refunds in tax receipts incurred in nonspecial levy funds resulting from abatements or court action in the previous year pursuant to section 275.48;

(o) pay amounts required by law to be paid to pay the interest on and to reduce the unfunded accrued liability of public pension funds in accordance with the actuarial standards and guidelines specified in sections 356.215

and 356.216 reduced by 106 percent of the amount levied for that purpose in 1976, payable in 1977. For the purpose of this special levy, the estimated receipts expected from the state of Minnesota pursuant to sections 69.011 to 69.031 or any other state aid expressly intended for the support of public pension funds shall be considered as a deduction in determining the required levy for the normal costs of the public pension funds. No amount of these aids shall be considered as a deduction in determining the governmental subdivision's required levy for the reduction of the unfunded accrued liability of public pension funds;

(p) the amounts allowed under section 174.27 to establish and administer a commuter van program;

(q) pay the costs of financial assistance to local governmental units and certain administrative, engineering, and legal expenses pursuant to Laws 1979, chapter 253, section 3;

(r) compensate for revenue lost as a result of abatements or court action pursuant to section 270.07, 270.17 or 278.01 due to a reassessment ordered by the commissioner of revenue pursuant to section 270.16;

(s) pay the total operating cost of a county jail as authorized in section 641.01. If the county government utilizes this special levy, then any amount levied by the county government in the previous year for operating its county jail and included in its previous year's levy limitation computed pursuant to section 275.51 shall be deducted from the current levy limitation;

(t) pay the costs of implementing section 18.023, including sanitation and reforestation;

(u) pay the estimated cost for the following calendar year of the county's share of funding the Minnesota cooperative soil survey; and

(v) pay the costs of meeting the planning requirements of section 115A.46; the requirements of section 115A.917; the planning requirements of the metropolitan plan adopted under section 473.149 and county master plans adopted under section 473.803; waste reduction and source separation programs and facilities; response actions that are financed in part by service charges under section 400.08 or 115A.15, subdivision 6; closure and post-closure care of a solid waste facility closed by order of the pollution control agency or by expiration of an agency permit before January 1, 1989; and current operating and maintenance costs of a publicly-owned solid waste processing facility financed with general obligation bonds issued after a referendum before March 25, 1986."

Page 21, after line 9, insert:

"Sec. 4. Minnesota Statutes 1986, section 429.061, subdivision 2, is amended to read:

Subd. 2. [ADOPTION; INTEREST.] At such meeting or at any adjournment thereof the council shall hear and pass upon all objections to the proposed assessment, whether presented orally or in writing. The council may amend the proposed assessment as to any parcel and by resolution adopt the same as the special assessment against the lands named in the assessment roll. Notice of any adjournment of the hearing shall be adequate if the minutes of the meeting so adjourned show the time and place when and where the hearing is to be continued.

The council may consider any objection to the amount of a proposed assessment as to a specific parcel of land at an adjourned hearing upon further notice to the affected property owner as it deems advisable. At the adjourned hearing the council or a committee of it may hear further written or oral testimony on behalf of the objecting property owner and may consider further written or oral testimony from appropriate city officials and other witnesses as to the amount of the assessment. The council or committee shall prepare a record of the proceedings at the adjourned hearing and written findings as to the amount of the assessment. The amount of the assessment as finally determined by the council shall become a part of the adopted assessment roll. No appeal may be taken as to the amount of any assessment adopted under this section unless written objection signed by the affected property owner is filed with the municipal clerk prior to the assessment hearing or presented to the presiding officer at the hearing. All objections to the assessments not received at the assessment hearing in the manner prescribed by this subdivision are waived, unless the failure to object at the assessment hearing is due to a reasonable cause.

If the adopted assessment differs from the proposed assessment as to any particular lot, piece, or parcel of land, the clerk must mail to the owner a notice stating the amount of the adopted assessment. Owners must also be notified by mail of any changes adopted by the council in interest rates or prepayment requirements from those contained in the notice of the proposed assessment.

The assessment, with accruing interest, shall be a lien upon all private and public property included therein, from the date of the resolution adopting the assessment, concurrent with general taxes; but the lien shall not be enforceable against public property as long as it is publicly owned, and during such period the assessment shall be recoverable from the owner of such property only in the manner and to the extent provided in section 435.19. ~~Except as provided below~~ *Unless otherwise provided in the resolution*, all assessments shall be payable in equal annual installments extending over such period, not exceeding 30 years, as the resolution determines, payable on the first Monday in January in each year, but the number of installments need not be uniform for all assessments included in a single assessment roll if a uniform criterion for determining the number of installments is provided by the resolution. The first installment of each assessment shall be included in the first tax rolls completed after its adoption and shall be payable in the same year as the taxes contained therein; except that the payment of the first installment of any assessment levied upon unimproved property may be deferred until a designated future year, or until the platting of the property or the construction of improvements thereon, upon such terms and conditions and based upon such standards and criteria as may be provided by resolution of the council. If special assessments against the property have been deferred pursuant to this subdivision, the governmental unit shall file with the county recorder in the county in which the property is located a certificate containing the legal description of the affected property and of the amount deferred. In any event, every assessment the payment of which is so deferred, when it becomes payable, shall be divided into a number of installments such that the last installment thereof will be payable not more than 30 years after the levy of the assessment. All assessments shall bear interest at such rate as the resolution determines; ~~not exceeding eight percent per annum; except that the rate may in any event equal the average annual interest rate on bonds issued to finance the improvement for which the assessments are~~

levied. To the first installment of each assessment shall be added interest on the entire assessment from a date specified in the resolution levying the assessment, not earlier than the date of the resolution, until December 31 of the year in which the first installment is payable, and to each subsequent installment shall be added interest for one year on all unpaid installments; or alternatively, any assessment may be made payable in equal annual installments including principal and interest, each in the amount annually required to pay the principal over such period with interest at such rate as the resolution determines, not exceeding the maximum period and rate specified above. In the latter event no prepayment shall be accepted under subdivision 3 without payment of all installments due to and including December 31 of the year of prepayment, together with the original principal amount reduced only by the amounts of principal included in such installments, computed on an annual amortization basis. When payment of an assessment is deferred, as authorized in this subdivision, interest thereon for the period of deferment may be made payable annually at the same times as the principal installments of the assessment would have been payable if not deferred; or interest for this period may be added to the principal amount of the assessment when it becomes payable; or, if so provided in the resolution levying the assessment, interest thereon to December 31 of the year before the first installment is payable may be forgiven.

Sec. 5. Minnesota Statutes 1986, section 429.091, subdivision 2, is amended to read:

Subd. 2. [TYPES OF OBLIGATIONS PERMITTED.] ~~Except for bonds issued for a pedestrian skyway system,~~ The council may by resolution adopted prior to the sale of obligations pledge the full faith, credit, and taxing power of the municipality for the payment of the principal and interest. Such obligations shall be called improvement bonds and the council shall pay the principal and interest out of any fund of the municipality when the amount credited to the specified fund is insufficient for the purpose and shall each year levy a sufficient amount to take care of accumulated or anticipated deficiencies, which levy shall not be subject to any statutory or charter tax limitation. Obligations for the payment of which the full faith and credit of the municipality is not pledged shall be called improvement warrants or, in the case of bonds for fire protection ~~or pedestrian skyway systems,~~ revenue bonds and shall contain a promise to pay solely out of the proper special fund or funds pledged to their payment. It shall be the duty of the municipal treasurer to pay maturing principal and interest on warrants or revenue bonds out of funds on hand in the proper funds and not otherwise."

Pages 22 to 27, delete sections 24 to 26 and insert:

"Sec. 7. Minnesota Statutes 1986, section 462.461, subdivision 4, is amended to read:

Subd. 4. An authority need not require either competitive bidding or bonds in the case of a contract for the acquisition of a low rent housing project for which financial assistance is provided by the federal government or any agency or instrumentality thereof, and which does not require any direct loan or grant of money from the municipality as a condition of such federal financial assistance, and where such contract provides for the construction of such a project upon land not owned by the authority at the time of such contract, or owned by the authority for redevelopment purposes, and provides for the conveyance or lease to the authority of such

project or improvements upon completion of construction. *An authority need not require competitive bidding with respect to a structured parking facility constructed in conjunction with, and directly above or below, a housing development project and financed with the proceeds of tax increment or parking ramp revenue bonds.*"

Page 27, lines 29 to 31, delete the new language

Page 28, strike lines 17 to 23

Page 28, delete lines 28 to 34

Pages 28 to 30, delete section 28

Page 30, line 14, reinstate the stricken language and delete the new language

Page 30, lines 15 to 17, delete the new language

Page 30, lines 30 to 32, delete the new language

Page 30, line 32, strike "defense" and insert "limits"

Page 30, line 33, strike "immunity" and insert "liability under section 466.04"

Page 30, line 35, after the period, insert "*Procurement of commercial insurance, participation in a self-insurance pool pursuant to section 471.981, or provision for an individual self-insurance plan with or without a reserve fund or reinsurance shall not constitute a waiver of any of the immunities conferred under section 466.03.*"

Page 31, line 1, delete "30 to 32" and insert "10 to 12"

Page 31, lines 9, 25, and 30, delete "32" and insert "12"

Page 31, line 13, after "to" insert ", or exercising the powers contained in," in both places

Page 31, line 29, after "273.77," insert "*with respect to a project, certification of which is requested before August 1, 1987, or pursuant to*"

Page 32, line 6, delete "solely"

Page 32, line 9, delete "31" and insert "11"

Page 32, line 27, delete "be subject to any liability on the bonds or"

Page 32, line 30, delete "holder or holders" and insert "owner or owners"

Page 32, line 32, delete "prinicipal" and insert "principal"

Page 33, delete section 33

Page 34, line 1, delete "political subdivisions" and insert "counties established by the Minnesota association of counties insurance trust"

Page 34, line 4, after the period, insert "*For purposes of this subdivision and subdivisions 4a, 4b, and 4c, "county" includes a joint powers entity created by counties for a special purpose.*"

Page 34, line 5, delete "political subdivision or"

Page 34, lines 6 and 8, delete "political subdivisions" and insert "counties"

Page 34, line 7, delete "political subdivisions and"

Page 35, lines 7, 28, and 29, delete "*political subdivision*" and insert "*county*"

Page 35, lines 11, 13, and 16, delete "*political*"

Page 35, line 12, delete "*subdivisions*" and insert "*counties*"

Page 35, line 14, delete the first "*subdivisions*" and insert "*counties*"

Page 35, lines 14 and 27, delete "*political subdivisions*" and insert "*counties*"

Page 35, line 17, delete "*subdivision*" and insert "*county*"

Page 35, line 18, delete everything after the period

Page 35, delete line 19

Page 35, line 20, delete everything before "*The*"

Page 35, lines 21, 23, and 25, delete "*fund or*"

Page 35, line 26, delete the second "*obligations*"

Page 35, line 27, delete "*of*" and insert "*payments made or to be made by*" and after "*insurance*" insert "*installment*"

Page 35, line 34, delete "*actuarily*" and insert "*actuarially*"

Page 36, delete lines 7 to 12

Page 36, line 13, delete "*this subdivision.*" and delete "*political*"

Page 36, line 14, delete "*subdivisions*" and insert "*counties*"

Page 36, line 16, delete "*or other obligations*"

Page 36, line 17, delete "*political subdivisions*" and insert "*counties*"

Page 36, line 19, delete "*political subdivision*" and insert "*county*"

Page 36, line 21, delete "*political*"

Page 36, line 22, delete "*subdivision the political subdivision's*" and insert "*county the county's*"

Page 36, line 35, delete "*political subdivision or*"

Page 37, line 7, delete "*political subdivision*" and insert "*county*"

Page 37, line 11, delete "*, and the levies shall*" and insert a period

Page 37, delete lines 12 and 13

Page 37, lines 17 and 18, delete "*political subdivisions*" and insert "*counties*"

Page 38, delete section 39

Pages 38 and 39, delete section 41 and insert:

"Sec. 19. Minnesota Statutes 1986, section 474.02, subdivision 2, is amended to read:

Subd. 2. "Municipality" means any city and any town described in section 368.01 and any county where the project is located outside the boundaries of a city or a town described in section 368.01. In all cases in which a project involves telephonic communications conducted by or to be conducted by a telephone company, or financial or other assistance to rail

users as defined in section 222.48, subdivision 6, for the purpose of making capital investment loans for rail line rehabilitation, "municipality" also means any county. *In any case in which a city or town described in section 368.01 has consented to the issuance of bonds by a county on behalf of an organization described in section 501(c)(3) of the Internal Revenue Code of 1986, as amended through December 31, 1986, to finance a project within its boundaries or to refund bonds previously issued by such city or town, "municipality" means any county.*

Sec. 20. Minnesota Statutes 1986, section 474.03, subdivision 12, is amended to read:

Subd. 12. [REFUNDING.] It may issue revenue bonds to refund, in whole or in part, bonds previously issued by the municipality or redevelopment agency under authority of sections 474.01 to 474.13, and interest on them. *The municipality may issue revenue bonds to refund, in whole or in part, bonds previously issued by any other municipality or redevelopment agency on behalf of an organization described in section 501(c)(3) of the Internal Revenue Code of 1986, as amended through December 31, 1986, under authority of sections 474.01 to 474.13, and interest on them, but only with the consent of the original issuer of such bonds."*

Page 40, line 36, after the period, insert "*Subject to any applicable bonds covenants, any payments required to be made by the municipality under the swap agreement may be made from sums secured to pay debt service on the obligations with respect to which the swap agreement was made or from any other available source of the municipality.*"

Page 43, line 3, reinstate the stricken language

Page 43, line 7, reinstate the stricken "the maximum interest rate"

Page 43, line 8, reinstate the stricken "permitted to be charged against the assessments under the"

Page 43, line 9, reinstate the stricken language

Page 44, line 1, after "by" insert "*the corporate trust department of a bank or trust company acting as*" and delete ", remarketing"

Page 44, delete line 2

Page 44, line 3, delete "*otherwise obligated*" and insert "*pursuant to documents executed at the time of issuance of the obligations*" and delete "*or remarket*"

Page 44, line 6, delete "*remarketing*"

Page 44, line 7, delete "*agent,*"

Page 46, lines 1 and 2, reinstate the stricken language

Page 46, line 3, reinstate the stricken "than" and after the stricken "10,000" insert "5,000" and reinstate the stricken ", as defined in section 477A.011, subdivision 3, or"

Page 46, line 4, reinstate the stricken "A" and delete "BAA"

Page 46, line 8, reinstate the stricken language

Page 46, line 21, reinstate the stricken language and delete the new language

Page 46, delete line 22 and insert "~~three-month~~ 12-month period;"

Page 47, line 2, reinstate the stricken language

Page 47, line 10, delete the semicolon

Page 47, delete lines 11 and 12

Page 47, line 13, delete the new language

Pages 47 and 48, delete section 55 and insert:

"Sec. 34. Minnesota Statutes 1986, section 475.66, subdivision 3, is amended to read:

Subd. 3. Subject to the provisions of any resolutions or other instruments securing obligations payable from a debt service fund, any balance in the fund may be invested

(a) in governmental bonds, notes, bills, mortgages, and other securities, which are direct obligations or are guaranteed or insured issues of the United States, its agencies, its instrumentalities, or organizations created by an act of Congress,

(b) in shares of an investment company (1) registered under the Federal Investment Company Act of 1940, whose shares are registered under the Federal Securities Act of 1933, and (2) whose only investments are in securities described in the preceding clause and repurchase agreements fully collateralized by those securities, if the repurchase agreements are entered into only with those primary reporting dealers that report to the Federal Reserve Bank of New York and with the 100 largest United States commercial banks,

(c) in any security which is (1) a general obligation of the state of Minnesota or any of its municipalities or (2) *a general obligation of the Minnesota housing finance agency, provided that investments under this clause (2) may be made only (i) prior to August 1, 1990, and (ii) for a period of no more than three years,*

(d) in bankers acceptances of United States banks eligible for purchase by the Federal Reserve System, or

(e) in commercial paper issued by United States corporations or their Canadian subsidiaries that is of the highest quality and matures in 270 days or less.

The fund may also be used to purchase any obligation, whether general or special, of an issue which is payable from the fund, at such price, which may include a premium, as shall be agreed to by the holder, or may be used to redeem any obligation of such an issue prior to maturity in accordance with its terms. The securities representing any such investment may be sold or hypothecated by the municipality at any time, but the money so received remains a part of the fund until used for the purpose for which the fund was created."

Page 49, line 36, reinstate the stricken language

Page 50, delete lines 1 to 18 and insert:

"shall be issued and sold more than six months before the refunded obligations mature or are called for redemption in accordance with their terms, unless either (i) as a result of the refunding the average life of the maturities is extended at least ~~five~~ *two* years or (ii) as of the nominal date of the

refunding obligations the *present value of the dollar amount of the debt service or interest only* on the refunding obligations, computed to their stated maturity dates, after deducting any premium or adding any discount, is lower by at least *five two percent* than the *present value of the dollar amount of debt service or interest only, as the case may be*, on all general obligations refunded, exclusive of any premium or discount, computed to their stated maturity dates; provided that in computing the dollar amount of debt service *or interest only* on the refunding obligations, any expenses of the refunding payable from a source other than the proceeds of the refunding obligations or the interest derived from the investment thereof shall be added to the dollar amount of debt service *or interest only* on the refunding obligations. *For purposes of this subdivision, the present value of the dollar amount of debt service means the dollar amount of debt service to be paid, discounted to the nominal date of the refunding obligations at a rate equal to the yield on the refunding obligations.* Expenses of the refunding"

Page 50, lines 19 to 28, reinstate the stricken language

Page 51, delete lines 2 and 3 and insert "Sections 25 to 31, 33, 37, and 38 are"

Renumber the sections in sequence

Amend the title as follows:

Page 1, line 7, delete "290.01," and insert "275.50, subdivision 5;"

Page 1, delete line 8

Page 1, line 9, delete "373.01, by adding a subdivision;" and after "400.101;" insert "429.061, subdivision 2;" and before "by" insert "subdivision 2, and"

Page 1, line 10, delete "462.429; 462.445, subdivision 4;"

Page 1, line 11, delete "465.71;"

Page 1, line 12, delete "subdivisions 1," and insert "subdivision"

Page 1, line 14, delete "1d;" and insert "2; 474.03, subdivision 12;" and delete "475.52,"

Page 1, line 15, delete "subdivision 3;"

Page 1, line 20, delete "116M, 136A,"

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. 1105: A bill for an act relating to recreation and natural resources; authorizing grants to local government units for park acquisition and betterment; authorizing dam safety projects; authorizing the acquisition of natural habitat; authorizing acquisition and betterment of units of the outdoor recreation system including, but not limited to, state parks, trails, forests, fishing management lands, wildlife management areas, scientific and natural areas, wild, scenic, and recreational rivers, canoe and boating routes, and public water access; authorizing acquisition and development of amateur athletic training facilities; imposing the sales tax on certain

clubs dues; providing for deposit and expenditures of certain sales tax revenues; authorizing the issuance of state bonds; appropriating money; amending Minnesota Statutes 1986, sections 297A.01, subdivision 3; and 297A.44, subdivision 1; proposing coding for new law in Minnesota Statutes, chapter 16A.

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

Delete everything after the enacting clause and insert:

"Section 1. [BOND SALE; DEBT SERVICE.]

To provide the money appropriated by this act from the state building fund, the state water pollution control fund, and the waste management fund, the commissioner of finance, upon the request of the governor, shall sell and issue bonds of the state in the amount of \$194,882,600 in the manner, upon the terms and with the effect prescribed by Minnesota Statutes, sections 16A.631 to 16A.671, and the Minnesota Constitution, article XI, sections 4 to 7.

Sec. 2. [DEPARTMENT OF ENERGY AND ECONOMIC DEVELOPMENT; APPROPRIATION FOR LOCAL RECREATION GRANTS PROGRAM.]

\$5,000,000 is appropriated from the state building fund to the commissioner of energy and economic development to acquire and better recreation open space projects upon application by local units of government. Projects that receive federal grants must be given priority. Notwithstanding any law to the contrary, grants under this section are not contingent upon the receipt of federal grants. A project may receive grant assistance of up to 50 percent of the total capital cost of the project or, if federal money is used, 50 percent of the local share. A project may not receive grant assistance of more than \$400,000. No local unit of government may receive more than one grant during each fiscal biennium.

\$1,250,000 the first year and \$1,250,000 the second year shall be granted for projects outside the metropolitan area defined in Minnesota Statutes, section 473.121.

Sec. 3. [DEPARTMENT OF NATURAL RESOURCES.]

Subdivision 1. [BRAINERD AIR TANKER BASE.] \$55,000 is appropriated from the state building fund to the commissioner of natural resources to complete construction of an air tanker base at the Brainerd/Crow Wing county airport for use in the suppression of wildfires.

Subd. 2. [APPROPRIATION FOR DAM SAFETY REPAIRS AND IMPROVEMENTS.] \$7,000,000 is appropriated from the state building fund to the commissioner of natural resources for dam safety projects under Minnesota Statutes, section 105.482.

Subd. 3. [APPROPRIATION FOR ACQUISITION AND BETTERMENT OF NATURAL RESOURCE LANDS.] The following sums are appropriated from the state building fund to the commissioner of natural resources to acquire critical natural habitat and to acquire and better public outdoor recreational lands and capital improvements.

- (1) *For acquisition of state parks and recreation areas, as listed and described in Minnesota Statutes, sections 85.012 and 85.013.*

\$3,000,000

- (2) For betterment of state parks and recreational areas, as listed and described in Minnesota Statutes, sections 85.012 and 85.013. \$6,000,000
- (3) For acquisition of state forests listed and described in Minnesota Statutes, section 89.021, and in accordance with plans developed under Minnesota Statutes, section 89.021. \$2,500,000
- (4) For betterment of state forests listed and described in Minnesota Statutes, section 89.021, and in accordance with plans developed under Minnesota Statutes, section 89.012. \$1,000,000
- (5) For betterment of forest roads and bridges as identified in the 1982 Forest Road Plan developed under Minnesota Statutes, section 89.011. \$ 550,000
- (6) For acquisition and betterment of state trails and trails within state parks and other units of the outdoor recreation system as defined in Minnesota Statutes, section 86A.05. \$6,000,000
- (7) For acquisition of wildlife management areas pursuant to Minnesota Statutes, sections 97A.135, subdivision 1, and 97A.145, subdivisions 1 and 2, and wetlands under the water bank program pursuant to Minnesota Statutes, section 105.392. \$5,000,000
- (8) For betterment of wildlife management areas, acquired pursuant to Minnesota Statutes, sections 97A.135, subdivision 1, and 97A.145, subdivision 1. \$1,000,000
- (9) For acquisition of scientific and natural areas pursuant to Minnesota Statutes, section 84.033. \$3,200,000
- (10) For betterment of scientific and natural areas designated pursuant to Minnesota Statutes, section 84.033. \$ 750,000
- (11) For acquisition and betterment of water access sites pursuant to Minnesota Statutes, section 97A.141, subdivisions 1 and 2. \$1,500,000
- (12) For acquisition of wild, scenic, and recreational rivers, pursuant to Minnesota Statutes, sections 104.25, subdivision 3, and 104.37, and canoe and boating, routes, portages, and camp sites, as listed in Minnesota Statutes, section 85.32. \$ 950,000

Subd. 4. [PROFESSIONAL SERVICES; COMPLEMENT.] The commissioner of natural resources shall provide the necessary professional services for the performance of the duties under this section from the amount appropriated for the various purposes. An approved complement of 34 unclassified positions is authorized.

Subd. 5. [LAND ACQUISITION.] Lands must be acquired by the commissioner of natural resources in accordance with policies established in Minnesota Statutes, sections 86A.01 to 86A.09. Lands acquired for each unit of the outdoor recreational system must be suited for the purpose of

that unit and suited for management in accordance with principles applicable to it. The commissioner of natural resources shall submit semiannual work plans to the legislative commission on Minnesota resources and shall submit a work program to the commission and request its recommendation before spending any money appropriated by this section for any purpose. The commission's recommendation is advisory only. Failure to respond to a request within 60 days after receipt is a negative recommendation. Work programs involving land acquisition must include a land acquisition plan.

Sec. 4. [METROPOLITAN AREA RECREATIONAL OPEN SPACE LANDS; APPROPRIATION FOR ACQUISITION AND BETTERMENT.]

\$34,000,000 is appropriated from the state building fund to the commissioner of energy and economic development for payment to the metropolitan council established under Minnesota Statutes, section 473.123. The commissioner shall transfer the amount to the metropolitan council upon receipt of a certified copy of a council resolution requesting payment. The appropriation must be used to pay the cost of acquisition and betterment by the metropolitan council and local government units of regional recreational open space lands in accordance with the council's policy plan as provided in Minnesota Statutes, sections 473.315 and 473.341, including relocation costs and tax equivalents required to be paid by Minnesota Statutes, sections 473.315 and 473.341. Of the amount appropriated by this section, the council may expend \$6,000,000 for the acquisition and betterment of land on Lake Minnetonka for a regional park, and no more than \$400,000 for staff and independent professional services necessary to acquire and better open space and for the performance of duties of the metropolitan council under this section.

This section applies in the counties of Anoka, Carver, Dakota, Hennepin, Ramsey, Scott, and Washington.

Sec. 5. [POLLUTION CONTROL AGENCY.]

The following sums are appropriated from the water pollution control fund to the pollution control agency for the purposes specified in this section. The approved complement of the pollution control agency is increased by 11 positions.

(1) For independent state construction grants	\$52,528,400
(2) For grant administration	\$ 800,000
(3) For combined sewer overflow	\$16,547,000
(4) For match to the federal revolving loan program	\$ 3,212,200

Sec. 6. [WASTE MANAGEMENT BOARD.]

\$6,000,000 is appropriated from the waste management fund to the waste management board for the program of state capital assistance grants to local projects to develop feasible and prudent alternatives to disposal of solid waste. Up to \$300,000 may be spent for administration and technical and professional services. The approved complement of the waste management board is increased by one position.

Sec. 7. [APPROPRIATIONS FOR AMATEUR ATHLETIC TRAINING FACILITIES.]

Subdivision 1. [COMMISSIONER OF ENERGY AND ECONOMIC DEVELOPMENT.] The following sums are appropriated from the state building fund to the commissioner of energy and economic development to

acquire and better amateur athletic training facilities.

- | | |
|---|--------------|
| (1) For a stadium, track and field, soccer, and training center in the city of Blaine | \$14,700,000 |
| (2) For a velodrome in the city of Blaine | \$ 700,000 |
| (3) For an ice hockey training center in the city of Blaine | \$ 3,000,000 |
| (4) For statewide ski jumping planning | \$ 25,000 |
| (5) For a speedskating center in the city of Roseville | \$ 3,000,000 |

Subd. 2. [IRON RANGE RESOURCES AND REHABILITATION BOARD.] *The following sums are appropriated from the state building fund to the iron range resources and rehabilitation board to acquire and better amateur athletic training facilities at Biwabik.*

- | | |
|--|--------------|
| (1) For expansion of the Giants Ridge ski center | \$ 2,245,000 |
| (2) For a canoe and kayak center | \$ 100,000 |
| (3) For a fieldhouse and multi-sport complex | \$ 3,400,000 |
| (4) Water system | \$ 1,700,000 |
| (5) Sewage system | \$ 1,700,000 |

Subd. 3. [UNIVERSITY OF MINNESOTA.] *The following sums are appropriated from the state building fund to the board of regents of the University of Minnesota to acquire and better amateur athletic training facilities.*

- | | |
|---------------------------|--------------|
| (1) For a swimming center | \$ 3,000,000 |
| (2) For a fencing center | \$ 250,000 |

Subd. 4. [STATE UNIVERSITY BOARD.] *\$7,470,000 is appropriated from the state building fund to the state university board to construct a multi-purpose recreational and instructional facility at Bemidji State University, including a running track, weight room, racquetball courts, dance studio, seminar rooms, office space, and related facilities, and to improve the outdoor stadium.*

Sec. 8. Minnesota Statutes 1986, section 115A.58, subdivision 5, is amended to read:

Subd. 5. [APPROPRIATIONS TO DEBT SERVICE ACCOUNT; APPROPRIATION FROM ACCOUNT TO PAY DEBT SERVICE.] *The premium and accrued interest received on each issue of Minnesota state waste management bonds, and all payments received in repayment of loans and other revenues received are appropriated to the debt service account. All income from the investment of the Minnesota state waste management fund is appropriated to the debt service account. A sum sufficient to pay all principal and interest on the waste management bonds authorized by this act due and to become due before July 1 in the second ensuing year is appropriated from the motor vehicle transfer fund for transfer to the debt service account on November 1 in each year. In order to reduce the amount of taxes otherwise required to be levied, there is also appropriated to the debt service account from any funds available in the general fund on November 1 in each year, a sum of money sufficient in amount, when added to the balance then on hand, to pay all principal and interest on Minnesota waste management bonds due and to become due before July 1 in the second ensuing year. So much of the debt service account of the state waste man-*

agement fund as is necessary to pay principal and interest on waste management bonds is annually appropriated from the debt service account for the payment of principal and interest of the waste management bonds. All funds appropriated by this subdivision shall be available in the debt service account prior to any levy of the tax in any year required by the Minnesota Constitution, article XI, section 7.

Sec. 9. Minnesota Statutes 1986, section 297A.01, subdivision 3, is amended to read:

Subd. 3. A "sale" and a "purchase" includes, but is not limited to, each of the following transactions:

(a) Any transfer of title or possession, or both, of tangible personal property, whether absolutely or conditionally, and the leasing of or the granting of a license to use or consume tangible personal property other than manufactured homes used for residential purposes for a continuous period of 30 days or more, for a consideration in money or by exchange or barter. "Sales" also include the transfer of computer software, meaning information and directions which dictate the function to be performed by data processing equipment and which are sold without adaptation to the specific requirements of the purchaser. This type of computer software, whether contained on tape, discs, cards, or other devices, shall be considered tangible personal property;

(b) The production, fabrication, printing or processing of tangible personal property for a consideration for consumers who furnish either directly or indirectly the materials used in the production, fabrication, printing or processing;

(c) The furnishing, preparing or serving for a consideration of food, meals or drinks, not including hospitals, sanatoriums, nursing homes or senior citizens homes, meals or drinks purchased for and served exclusively to individuals who are 60 years of age or over and their spouses or to the handicapped and their spouses by governmental agencies, nonprofit organizations, agencies, or churches or pursuant to any program funded in whole or part through 42 USCA sections 3001 through 3045, wherever delivered, prepared or served, meals and lunches served at public and private schools, universities or colleges, or the occasional meal thereof by a charitable or church organization. Notwithstanding section 297A.25, subdivision 2, taxable food or meals include, but are not limited to, the following:

- (i) heated food or drinks;
- (ii) sandwiches prepared by the retailer;
- (iii) single sales of prepackaged ice cream or ice milk novelties prepared by the retailer;
- (iv) hand-prepared or dispensed ice cream or ice milk products including cones, sundaes, and snow cones;
- (v) soft drinks and other beverages prepared or served by the retailer;
- (vi) gum;
- (vii) ice;
- (viii) all food sold in vending machines;
- (ix) party trays prepared by the retailers; and

(x) all meals and single servings of packaged snack food, single cans or bottles of pop, sold in restaurants and bars;

(d) The granting of the privilege of admission to places of amusement or athletic events and the privilege of use of amusement devices or athletic facilities;

(e) The furnishing for a consideration of lodging and related services by a hotel, rooming house, tourist court, motel or trailer camp and of the granting of any similar license to use real property other than the renting or leasing thereof for a continuous period of 30 days or more;

(f) The furnishing for a consideration of electricity, gas, water, or steam for use or consumption within this state, or local exchange telephone service and intrastate toll service; the tax imposed on amounts paid for telephone services is the liability of and shall be paid by the person paying for the services. Sales by municipal corporations in a proprietary capacity are included in the provisions of this clause. The furnishing of water and sewer services for residential use shall not be considered a sale;

(g) The furnishing for a consideration of cable television services, including charges for basic monthly service, charges for monthly premium service, and charges for any other similar television services;

(h) Notwithstanding subdivision 4, and section 297A.25, subdivision 9, the sales of horses including claiming sales and fees paid for breeding a stallion to a mare. This clause applies to sales and fees with respect to a horse to be used for racing whose birth has been recorded by the Jockey Club or the United States Trotting Association or the American Quarter Horse Association but shall not apply with respect to the sale of a horse bred and born in the state of Minnesota;

(i) *The granting of membership in a club, association or other organization if:*

(1) the club, association, or other organization makes available for the use of its members sports and athletic facilities without regard to whether a separate charge is assessed for use of the facilities; and

(2) use of the sports and athletic facilities is not made available to the general public on the same basis as it is made available to members.

Granting of membership includes both one-time initiation fees and periodic membership dues. Sports and athletic facilities include golf courses, tennis, racquetball, handball and squash courts, basketball and volleyball facilities, running tracks, exercise equipment, swimming pools and other similar athletic or sports facilities.

Sec. 10. Minnesota Statutes 1986, section 297A.44, subdivision 1, is amended to read:

Subdivision 1. (a) All revenues, including interest and penalties, derived from the excise and use taxes imposed by sections 297A.01 to 297A.44 shall be deposited by the commissioner in the state treasury and credited to the general fund.

(b) All excise and use taxes derived from sales and use of property and services purchased for the construction and operation of an agricultural resource project, from and after the date on which a conditional commitment for a loan guaranty for the project is made pursuant to section 41A.04, subdivision 3, shall be deposited in the agricultural resource loan guaranty

fund. The commissioner of finance shall certify to the commissioner the date on which the project received the conditional commitment. The amount deposited in the loan guaranty fund shall be reduced by any refunds and by the costs incurred by the department of revenue to administer and enforce the assessment and collection of the taxes.

(c) Revenues, including interest and penalties, derived from the excise and use taxes imposed on sales as defined in section 297A.01, subdivision 3, clause (i), must be deposited in the state treasury and credited to the amateur athletic facilities account in the general fund.

Sec. 11. [16A.87] [AMATEUR ATHLETIC FACILITIES ACCOUNT.]

(a) An amateur athletic facilities account is created in the general fund to receive the money deposited under section 297A.44, subdivision 1, paragraph (c). The money in the account must be used to repay principal and interest on the bonds issued to finance projects authorized under section 7. The commissioner of finance must transfer from the money in the account to the state bond fund on December 1 of each year an amount equal to the share of the appropriation under section 16A.641, subdivision 10, that is attributable to bonds issued for projects authorized under section 7.

(b) If the commissioner of finance determines that the money in the account will be sufficient to pay the bond obligations as provided by paragraph (a), any excess money in the fund may be expended to operate and maintain the facilities constructed with the bonds. The amount so determined is appropriated to the commissioner of energy and economic development, the iron range resources and rehabilitation board, and the board of regents of the University of Minnesota in the proportion that the commissioner of finance determines is proper.

(c) The money in the amateur athletic facilities account is annually appropriated to the commissioner of finance for the purposes specified in this section."

Amend the title as follows:

Page 1, line 12, after "access;" insert "providing for open space improvements in the metropolitan area;"

Page 1, line 18, after "sections" insert "115A.58, subdivision 5;"

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. Davis from the Committee on Agriculture, to which was referred

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.

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

Page 1, line 9, after "2." insert "[12-MONTH REDEMPTION PERIOD.]"

Page 1, line 15, strike "(a)" and insert "(1)"

Page 1, line 16, strike "(b)" and insert "(2)"

Page 1, line 19, strike "(c)" and insert "(3)"

Page 1, line 22, delete "(d)" and insert "(4)"

Page 1, line 23, delete "used" and insert "in agricultural use"

Page 1, line 24, delete "primarily for farming" and delete "500.24" and insert "40A.02"

Page 1, line 25, delete "2" and insert "3"

Page 2, line 1, delete "(e)" and insert "(5)"

Page 2, after line 2, insert:

"Sec. 2. Minnesota Statutes 1986, section 580.23, is amended by adding a subdivision to read:

Subd. 3. [AFFIDAVIT OF AGRICULTURAL USE.] An affidavit signed by the mortgagor and a certificate signed by the county assessor where the land is located stating that the mortgaged premises as legally described in the affidavit and certificate are not in agricultural use as defined in section 40A.02, subdivision 3, may be recorded in the office of the county recorder or registrar of titles where the property is located and are prima facie evidence of the facts contained in the affidavit and certificate."

Amend the title as follows:

Page 1, line 4, after "2" insert ", and by adding a subdivision"

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

SECOND READING OF SENATE BILLS

S.F. Nos. 956, 1258, 921, 1243, 865, 1099, 200, 973, 449, 377, 506, 1331, 1277, 1161, 1063, 1452, 1272, 666, 1101, 724, 473, 1249 and 971 were read the second time.

SECOND READING OF HOUSE BILLS

H.F. Nos. 444, 281, 334, 26, 1213, 217, 638, 830, 1141, 904, 836, 294 and 450 were read the second time.

MOTIONS AND RESOLUTIONS

Mr. Merriam moved that the name of Mr. Wegscheid be added as a co-author to S.F. No. 1116. The motion prevailed.

Ms. Reichgott moved that the name of Mr. Wegscheid be added as a co-author to S.F. No. 1270. The motion prevailed.

Ms. Reichgott moved that the name of Mr. Wegscheid be added as a co-author to S.F. No. 1275. The motion prevailed.

Mr. Luther moved that the name of Mr. Pogemiller be added as a co-author to S.F. No. 1321. The motion prevailed.

Mr. Kroening moved that the name of Mrs. Adkins be added as a co-author to S.F. No. 1372. The motion prevailed.

Ms. Piper moved that the name of Mr. Wegscheid be added as a co-author to S.F. No. 1376. The motion prevailed.

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

author to S.F. No. 1468. The motion prevailed.

Mr. Luther moved that the name of Mr. Dahl be added as a co-author to S.F. No. 1479. The motion prevailed.

CALENDAR

S.F. No. 863: A bill for an act relating to horse racing; authorizing the racing commission to issue an additional license for a racetrack in the seven-county metropolitan area to be used for standard-bred racing; amending Minnesota Statutes 1986, sections 240.06, by adding a subdivision; and 240.14, 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 48 and nays 12, as follows:

Those who voted in the affirmative were:

Adkins	DeCramer	Johnson, D.J.	Moe, R.D.	Schmitz
Anderson	Dicklich	Jude	Morse	Solon
Beckman	Diessner	Knaak	Novak	Spear
Benson	Frank	Kroening	Olson	Storm
Berg	Frederick	Laidig	Pehler	Vickerman
Bernhagen	Frederickson, D.J.	Langseth	Peterson, R.W.	Waldorf
Bertram	Frederickson, D.R.	Lantry	Pogemiller	Wegscheid
Chmielewski	Freeman	McQuaid	Ramstad	Willet
Cohen	Hughes	Mehrkens	Renneke	
Davis	Johnson, D.E.	Merriam	Samuelson	

Those who voted in the negative were:

Belanger	Brataas	Larson	Metzen	Peterson, D.C.
Berglin	Gustafson	Lessard	Moe, D.M.	Reichgott
Brandl	Knutson			

So the bill passed and its title was agreed to.

S.F. No. 678: A bill for an act relating to natural resources; authorizing Rice Creek watershed district to increase the administrative fund amount.

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

The question was taken on the passage of the bill.

The roll was called, and there were yeas 57 and nays 3, as follows:

Those who voted in the affirmative were:

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

Messrs. Bertram, Brandl and Pehler voted in the negative.

So the bill passed and its title was agreed to.

CONSENT CALENDAR

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.

Mr. Dicklich moved that H.F. No. 1390, No. 1 on the Consent Calendar, be stricken and placed at the bottom of General Orders. The motion prevailed.

S.F. No. 1296: A bill for an act relating to Gillette Children's Hospital; clarifying the hospital's exemption from certain tax provisions; amending Minnesota Statutes 1986, section 250.05, by adding subdivisions.

Ms. Berglin moved to amend S.F. No. 1296 as follows:

Page 2, after line 14, insert:

"Sec. 3. [EFFECTIVE DATE.]

Sections 1 and 2 are effective the day following final enactment."

The motion prevailed. So the amendment was adopted.

S.F. No. 1296 was read the third time, as amended, and placed on its final passage.

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

The roll was called, and there were yeas 63 and nays 0, as follows:

Those who voted in the affirmative were:

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

So the bill, as amended, 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:

H.F. No. 510, which the committee recommends to pass with the following amendment offered by Mr. Wegscheid:

Page 9, after line 23, insert:

"Sec. 16. [HISTORICAL SOCIETY.]

Dakota county, in addition to the authority provided by section 138.051, may provide financial and accounting services, including payroll management and records, to the Dakota county historical society. Notwith-

standing this section or any other law to the contrary, Dakota county historical society employees shall not be deemed county employees for any other purpose."

Renumber the sections in sequence

Amend the title as follows:

Page 1, line 4, after the semicolon, insert "authorizing the county to provide certain services to the Dakota county historical society;"

The motion prevailed. So the amendment was adopted.

S.F. No. 134, which the committee reports progress, after the following motion:

Mr. Dicklich moved to amend S.F. No. 134 as follows:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 1986, section 216B.03, is amended to read:

216B.03 [REASONABLE RATE.]

Every rate made, demanded, or received by any public utility, or by any two or more public utilities jointly, shall be just and reasonable. Rates shall not be unreasonably preferential, unreasonably prejudicial or discriminatory, but shall be sufficient, equitable and consistent in application to a class of consumers. *Demand charges for a class of customers which include a customer with a connected load of over 100,000 kilowatts may not exceed the fixed cost of providing service to the class of customers, and may not include any recovery of any portion of the utility's authorized rate of return on equity.* To the maximum reasonable extent, the commission shall set rates to encourage energy conservation and renewable energy use and to further the goals of sections 116J.05, 216B.164, and 216B.241. Any doubt as to reasonableness should be resolved in favor of the consumer. For rate making purposes a public utility may treat two or more municipalities served by it as a single class wherever the populations are comparable in size or the conditions of service are similar.

Sec. 2. Minnesota Statutes 1986, section 216B.50, is amended by adding a subdivision to read:

Subd. 4. [ADJUSTMENT TO RATES.] The commission, as part of its investigation under subdivision 1, shall determine the extent to which and when any gain from a sale of a plant must be passed through to the utility's customers. Any pass through of a gain must be allocated in the utility's next general rate case to each customer class in the same proportion as the class was allocated or assigned the costs of the plant that was sold.

Sec. 3. [EFFECTIVE DATE.]

Section 1 is effective the day following final enactment. Section 2 is effective the day following final enactment and applies to any application for approval of the sale or purchase of a power plant filed after December 1, 1986."

Delete the title and insert:

"A bill for an act relating to utilities; requiring that demand charges for large customers of electric utilities not exceed certain costs; regulating the sale of power plants; amending Minnesota Statutes 1986, sections 216B.03;

and 216B.50, by adding a subdivision."

The question was taken on the adoption of the amendment.

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

Those who voted in the affirmative were:

Berglin	Frederickson, D.J.	Kroening	Morse	Samuelson
Brandl	Frederickson, D.R.	Laidig	Novak	Schmitz
Cohen	Freeman	Langseth	Olson	Willet
Dahl	Johnson, D.J.	Lessard	Peterson, D.C.	
Davis	Jude	Luther	Piper	
DeCramer	Knaak	Marty	Pogemiller	
Dicklich	Knutson	Merriam	Reichgott	

Those who voted in the negative were:

Adkins	Bertram	Hughes	Moe, D.M.	Vickerman
Anderson	Brataas	Johnson, D.E.	Peterson, R. W.	Waldorf
Beckman	Chmielewski	Lantry	Ramstad	Wegscheid
Belanger	Diessner	Larson	Renneke	
Benson	Frank	McQuaid	Solon	
Berg	Frederick	Mehrkens	Spear	
Bernhagen	Gustafson	Metzen	Storm	

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

S.F. No. 134 was then progressed.

On motion of Mr. Luther 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. Merriam and Novak introduced—

S.F. No. 1504: A bill for an act relating to the county of Anoka; exempting an allocation of issuance authority for a solid waste project from the notice of issue filing deadline.

Referred to the Committee on Taxes and Tax Laws.

Messrs. Dicklich, Marty and Luther introduced—

S.F. No. 1505: A bill for an act relating to utilities; defining terms; establishing least-cost planning; appropriating money; amending Minnesota Statutes 1986, sections 216B.02, by adding subdivisions; proposing coding for new law in Minnesota Statutes, chapter 216B.

Referred to the Committee on Public Utilities and Energy.

Mr. Dicklich introduced—

S.F. No. 1506: A bill for an act relating to retirement; Minnesota state retirement system; teachers retirement association; authorizing early unreduced retirement under the rule of 90; amending Minnesota Statutes 1986, sections 352.116, by adding a subdivision; and 354.44, subdivision 6.

Referred to the Committee on Governmental Operations.

Mr. Lessard introduced—

S.F. No. 1507: A bill for an act relating to veterans; requiring the construction of a veterans home in Grand Rapids with the use of nonstate funds and providing for the operation and administration of the home; proposing coding for new law in Minnesota Statutes, chapter 198.

Referred to the Committee on Veterans.

Mr. Taylor, Mrs. McQuaid, Mr. Wegscheid, Mrs. Lantry and Ms. Olson introduced—

S.F. No. 1508: A bill for an act relating to child care; expanding eligibility for child care sliding fee program; providing for reimbursement of child care provider accreditation fees; creating an office of child care providers assistance in the department of human services; increasing the number of certain licensing inspections; requiring a study of day care funding sources; requiring a privately operated child care in capitol complex; establishing state policy for certain inspections; exempting construction materials and equipment from sales tax; creating a tuition tax credit; creating an employer tax credit for child care operations; establishing state grants to county government; appropriating money; amending Minnesota Statutes 1986, sections 16B.04, subdivision 2; 16B.39, by adding a subdivision; 245.783, by adding a subdivision; 245.884; 256.01, subdivision 2; 268.91, subdivision 4, and by adding a subdivision; 290.06, by adding subdivisions; and 297A.25, by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapters 245 and 256.

Referred to the Committee on Health and Human Services.

Messrs. Lessard, Solon, Chmielewski, Mrs. Adkins and Mr. Kroening introduced—

S.F. No. 1509: A bill for an act relating to family law; abolishing certain limitations on paternity actions; amending Minnesota Statutes 1986, section 257.57, subdivision 1.

Referred to the Committee on Judiciary.

Messrs. Lessard, Solon, Chmielewski, Mrs. Adkins and Mr. Kroening introduced—

S.F. No. 1510: A bill for an act relating to marriage dissolution; regulating awards of spousal maintenance; repealing Minnesota Statutes 1986, section 518.552, subdivision 3.

Referred to the Committee on Judiciary.

Mr. Wegscheid introduced—

S.F. No. 1511: A bill for an act relating to commerce; regulating personal property locker facilities; providing licensing and bonding requirements; regulating rental agreements; providing minimum health and safety standards; proposing coding for new law as Minnesota Statutes, chapter 504A.

Referred to the Committee on Commerce.

MEMBERS EXCUSED

Messrs. Purfeerst, Stumpf and Taylor were excused from the Session of today. Mr. Pehler was excused from the Session of today at 2:55 p.m. Ms. Piper was excused from the Session of today from 2:00 to 2:15 p.m. Mr. Dahl was excused from the Session of today from 2:00 to 2:20 p.m.

ADJOURNMENT

Mr. Luther moved that the Senate do now adjourn until 3:00 p.m., Wednesday, April 29, 1987. The motion prevailed.

Patrick E. Flahaven, Secretary of the Senate